

THE JUDICIAL SYSTEM AND ADMINISTRATION OF JUSTICE IN
NICARAGUA

The Constitution of Nicaragua establishes that justice emanates from the people and shall be imparted on their behalf by the Judicial Branch made up of the courts of justice established by law (Article 158 of the Constitution). The courts of justice comprise a single system, whose highest body is the Supreme Court. The Judicial Branch shall receive no less than 4% of the General Budget of the Republic. There shall be courts of appeal, district judges, and local judges, whose organization and operation will be determined by law (Article 159 of the Constitution). The Judicial Career is established, which shall be regulated by law (Article 159 of the Constitution). The jurisdictional powers of deciding cases and carrying out those decisions are the exclusive purview of the Judicial Branch. The military courts shall only hear matters involving strictly military crimes and misdemeanors, without prejudice to petitions and appeals before the Supreme Court. The administration of justice guarantees the principle of legality; and it guards and protects human rights by applying the law in matters and trials within its sphere of competence (Article 160 of the Constitution).

Following are the requirements in order to serve as a judge in the courts of justice (Article 161 Constitution):

1. Must be a national of Nicaragua. Anyone who has acquired another nationality must renounce it at least four years before being elected.
2. Must be an attorney of high moral standing, have exercised the profession or held the office of judge for at least ten years, or have been a magistrate in the courts of appeals for four years before seeking office as a Supreme Court Justice.
3. Must have full enjoyment of civil and political rights.
4. Must be between 35 and 75 years old on the day of the election.
5. Must not have had the right to exercise the profession of attorney or notary suspended by a final judicial decision.
6. Must not be an active duty member of the military, or must have resigned at least twelve months before the election. ⁽²⁾
7. Must reside in the country continuously during the four years prior to the date of the election, unless serving on a diplomatic mission, working in an international organization, or studying abroad.

The terms for Justices on the Supreme Court and Judges on the Courts of Appeals shall be for five years. They may only be removed from their posts for reasons set forth in the Constitution and the law. Supreme Court Justices enjoy immunity (Article 162 of the Constitution). The Supreme Court is made up of 16 Justices chosen by the National Assembly for a five-year term (Article 163 of the Constitution). The Supreme Court is made up of Chambers, whose organization and composition is agreed to among the Justices themselves, as set forth in the Law on this subject. The Full Court shall hear and rule on appeals challenging the constitutionality of laws and on any jurisdictional or constitutional conflicts between the branches of government. The National Assembly shall appoint an Alternate Judge for each Justice. These Alternate Judges shall be called upon to serve on the Full Court or in any of its Chambers when any of the Justices is absent, excused, implicated, or recused from a case.

Supreme Court Justices are sworn in before the National Assembly, and choose from among themselves a President and Vice President by a majority of votes and for a one-year period. These can be re-elected.

Following are the powers of the Supreme Court (Article 164 of the Constitution):

1. Organize and direct the administration of justice.
2. Hear and rule on ordinary and special appeals filed against the decisions of the courts of justice, according to the procedures established by law.
3. Hear and rule on *amparo* motions alleging violations of the rights established in the Constitution, according to the *Amparo* Law.
4. Hear and rule on appeals challenging the constitutionality of laws.
5. Appoint and remove judges from the Court of Appeals based on the vote of three-quarters of the members of the Supreme Court.
6. Rule on requests for the extradition of citizens of other countries and deny those for nationals.
7. Appoint or remove judges, coroners, and public registrars of real and commercial property throughout the country, according to the Constitution and the law.
8. Issue authorizations to exercise the profession of attorney and notary, and also suspend and reinstate same, according to the law.
9. Grant authorization to carry out decisions made by foreign courts.

10. Hear and rule on any administrative conflicts that may arise among the agencies of government administration, and between them and private parties.

11. Hear and rule on any conflicts which may arise among the municipalities or between the municipalities and agencies of the central government.

12. Hear and rule on jurisdictional and Constitutional conflicts between the branches of government.

13. Hear and rule on constitutional conflicts among the central government, the municipal governments, and the autonomous regions of the Atlantic Coast.

14. Issue its own Rules of Procedure and appoint its own staff.

15. All other powers conferred upon it by the Constitution and the laws.

The Justices and Judges are independent in their judicial activity, responding only to the Constitution and the law. They are governed, among other things, by the principles of equality, public proceedings, and the right to one's defense. Justice in Nicaragua is free of charge (Article 165 of the Constitution). The administration of justice shall be organized and operated with the participation of the people as determined by law. The members of the courts of justice, whether or not they are attorneys, have equal authority in the exercise of their jurisdictional powers (Article 166 of the Constitution).

Compliance with the judgments and decisions of the courts and judges is mandatory for the State authorities, organizations, natural and legal persons involved (Article 67 of the Constitution).