



Ratification Kit

Guatemala

Why is it important for Guatemala to ratify the United Nations Protocol to abolish the death penalty?

Guatemala abolished the death penalty for ordinary crimes only following the ruling of the Constitutional Court of Guatemala in 2017, which declared the imposition the death penalty unconstitutional for most capital crimes. Article 18 of the Constitution also limits the use of the death penalty by banning its imposition on women or people older than 60 years of age.

As the Constitution is the legislative reflection of a country's supreme values, those which limit the application of the death penalty in their Constitution demonstrate the importance they attach to this issue.

Ratification of the **Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR)** is extremely important, both nationally and locally, because it is the only text with worldwide reach aiming to abolish the death penalty.

Ratifying the Protocol is a very symbolic act, reflecting the universal trend towards abolition of capital punishment, considered to be cruel, inhuman or degrading treatment. **It is essential that the world's abolitionist countries become party to this Protocol.**

What are the international commitments already taken by Guatemala to ratify the Protocol?

Guatemala also demonstrated its commitment as regards abolition of the death penalty by voting in favor of **seven UN General Assembly resolutions for a moratorium on the use of the death penalty in 2007, 2010, 2012, 2014, 2016, 2018 and 2020.** It abstained in 2008.

Guatemala participated in the **Universal Periodic Review of the Human Rights Council** in **2017** and noted the recommendations to ratify the Second Optional Protocol to the International Covenant to Civil and Political, aiming at the abolition of the death penalty. Guatemala further stated that the decision of the

Constitutional Court to rescind the death penalty for many crimes “paves the way for full compliance” with the ICCPR. The **Human Rights Council** would inevitably commend Guatemala if it officially abolished the death penalty and ratified the Protocol prior to its next review.

What is the procedure to be followed as regards internal law?

According to Article 7.2 of the Protocol, it “is subject to ratification by any State that has ratified the Covenant or acceded to it.” **Guatemala acceded to the International Covenant on Civil and Political Rights in 1992** and is therefore competent to ratify this Protocol.

Among the obligations incumbent upon Guatemala following ratification of the Protocol are the **prohibition of executions and withdrawal of the death penalty from internal criminal law**. These two obligations **have been partially fulfilled** by Guatemala following the 2017 ruling of the Constitutional Court. It may consequently ratify the Protocol.

The President of the Republic shall submit any international treaty to the consideration of the Congress (Article 183.k of the Constitution) for their ratification to be approved when they affect existing laws (Article 171.1.1 of the Constitution).

The instruments of ratification must then be deposited with the UN Secretary-General (Article 7.2 of the Protocol).

What are the legal obstacles to ratification?

Only reservations for the most serious crimes of a military nature committed in time of war are allowed prior to ratification (Article 2.1 of the Protocol).

We therefore encourage Guatemala to fully abolish the death penalty and to ratify unreservedly this Protocol as soon as possible.

How can ratification to the Protocol be implemented?

The Protocol shall come into force three months after the instruments of ratification have been deposited with the UN Secretary-General (Article 8.2 of the Protocol).

According to Article 3 of the Protocol, Guatemala must submit reports to the Human Rights Committee covering the measures it has adopted to give effect to the Protocol.

The World Coalition Against the Death Penalty also encourages Guatemala to ratify the **Protocol to the American Convention on Human Rights to Abolish the Death Penalty**.

For more information, contact the World Coalition Against the Death Penalty or visit its website: <http://www.worldcoalition.org/protocol>