

Press Release

Inter-American Court of Human Rights

I/A Court H.R._PR-61/2023 English

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I/A Court H.R. Protecting Rights

GUATEMALA IS NOT RESPONSIBLE FOR NOT AUTHORIZING AN AMERICAN CITIZEN TO ACT AS NOTARY PUBLIC

San José, Costa Rica, September 4, 2023. In the Judgment notified today in the Case of Hendrix v. Guatemala, the Inter-American Court of Human Rights declared that the State is not internationally responsible for the violation of the rights to equal protection and to judicial protection contained in Articles 24 and 25.1 of the American Convention on Human Rights, in relation to Articles 1.1 and 2 thereof, to the detriment of Steven Edward Hendrix.

The official summary of the Judgment can be accessed [here](#) and the full text of the Judgment can be accessed [here](#).

Steven Edward Hendrix is an American citizen who spent time in Guatemalan territory on various occasions between 1997 and 2006, for a minimum of three days and a maximum of three months and 24 days. During this period, after obtaining his Bachelor's degree (licenciatura) in Legal and Social Sciences with the professional title of Lawyer and Notary from Universidad San Carlos, he began the process to validate his title and requested incorporation as a lawyer and notary. The Association of Lawyers and Notaries of Guatemala authorized Mr. Hendrix to act as a lawyer but not as a notary, since he did not comply with the legal requirement that the individual must be a national of Guatemala in order to act as a notary in the country.

On January 18, 2002, Mr. Hendrix filed an appeal regarding the rejection to act as a notary, requesting that the matter be forwarded to the Assembly of Presidents of the Professional Associations of Guatemala, which heard the appeal and disallowed it on April 22, 2002, since it considered that the Association "acted in conformity with the law"; thus, the appealed resolution became final. On May 9, 2002, Mr. Hendrix filed an appeal for legal protection before the Third Chamber of Appeals regarding the resolutions of the Association of Lawyers and Notaries and the Assembly of Presidents of the Professional Associations of Guatemala that rejected his admission as a notary. On June 25, 2002, the Third Chamber of the Court of Appeals disallowed the appeal for legal protection and sentenced Mr. Hendrix to the payment of legal costs. Mr. Hendrix then filed an appeal against the resolution of June 25, 2002, before the Constitutional Court. On April 21, 2004, the Constitutional Court admitted the appeal for legal protection, revoked the judgment and declared that Mr. Hendrix should be authorized to act as a notary, with the condition that he must obtain Guatemalan nationality.

In its Judgment, the Court noted that Article 2 of the Notary Code requires the notary to be domiciled in Guatemala, and upon consideration of the facts it was evidenced that Mr. Hendrix lacked records or elements that would allow to determine his settlement in Guatemala, which is a requirement established by law in order to hold the function of notary public. The Court noted that the settlement requirement is especially important when considering the responsibilities and functions held by notaries in Guatemala. Consequently, the Court considered that the State did not violate Article 24 of the American Convention, in relation to Articles 1.1 and 2 thereof, to the detriment of Mr. Steven Edward Hendrix.

Regarding the alleged violation of the right to judicial protection, the Court noted that in its judgment the Constitutional Court of Guatemala analyzed the claims filed by the alleged victim, and even overturned the administrative and judicial resolutions that had failed to solve the problem of the requirement of having Guatemalan nationality to act as a notary.

Since the State was found not to be internationally responsible, the Court ordered the case to be closed.

Judges Nancy Hernández López and Patricia Pérez Goldberg shared their concurring opinion and Judge Rodrigo Mudrovitsch shared his dissenting opinion with the Court.

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