

Mexico City. September 30, 2024.

Constitutional reform to the Federal Judicial Branch.

Dear clients and friends,

On September 15, 2024, the President of Mexico enacted the "DECREE by which several provisions of the Political Constitution of the United Mexican States are amended, added and derogated, regarding the Federal Judicial Branch", whose provisions entered into force the day after its publication in the Federal Official Gazette, granting a period of ninety days to the Federal Congress to make the adjustments to the corresponding federal laws, among other matters.

I. CONTENT OF THE REFORM

This constitutional reform is the result of a bill presented by the President of Mexico, as well as of an intense and complex debate within the legislative process, which the main points are the following:

1. Constitutional controversies and actions of unconstitutionality against laws. A last paragraph is added to Article 105 of the Constitution to include that, in the case of constitutional controversies or actions of unconstitutionality against any general laws, when admitted, the suspension of the challenged laws may not be granted.

2. Amparo against laws. Sections II and X of Article 107 of the Constitution are added and modified to include that, in the case of an amparo (constitutional proceeding) against any general laws, the suspension may not be granted with general effects, nor the judgments issued in such proceedings will have general effects.

3. Expediency on tax cases. The amendment adds the second paragraph of Article 17 of the Mexican Constitution, in order for the Administrative Courts and the jurisdictional bodies of the Federal Judicial Power ("PJF"), which hear tax matters, to resolve them within a maximum term of six months, in the understating that the amounts and assumptions of the applicable cases which will be regulated in the secondary laws. In case a judgment is not issued within the aforementioned term, the Court hearing the case must inform the Tribunal of Judicial Discipline (the "Disciplinary Tribunal"), justifying the reasons for the delay.

4. Expediency on criminal cases. A second paragraph is added to section VII, subsection B, of article 20 of the Constitution, to include that, in case a judgment is not issued within the terms indicated in the first paragraph of said section, the jurisdictional body hearing the case must inform the Disciplinary Tribunal, justifying the reasons for the delay.

5. Protected identity of judges in organized crime cases. The amendment modifies section X, subsection A, of article 20 of the Constitution, to indicate that, only in organized crime cases, the Judicial Administration Body shall grant and order the necessary measures to safeguard the security and protect the identity of the judges, in accordance with the procedure that will be established in federal laws. Although this measure seeks, in the first degree, to guarantee the security of the judges —given the impossibility of the Mexican Government to guarantee such security by other means— the protection of the identity of the judges has been considered a violation of human rights, specifically against Article 8.1, in relation to Articles 1.1 and 2, of the American Convention on Human Rights, in terms of the judgment of the Inter-American Court of Human Rights in the case of Señora J. v. Peru.

6. Election of judges by vote. The Supreme Justices of the Supreme Court of Justice of the Nation ("SCJN"), the Electoral Tribunal of the Judicial Power of the Federation (the "Electoral Tribunal"), the Disciplinary Tribunal, the Circuit Tribunals and the District Courts will be freely, directly and secretly elected by the citizenship on the day of the ordinary federal elections of the corresponding year.

Procedure for the election of judges. The election procedure shall be as follows:

- Call. The Senate shall publish the call for the integration of the list of candidates in the year of elections, which shall contain the stages of the procedure, dates and deadlines. For such purposes, the Judicial Administration Body shall inform the positions subject to election, considering specialization by subject matter, judicial circuits and other relevant information.

- Participation requirements. Each Federal Power shall establish public, open, transparent, inclusive and accessible mechanisms that allow the participation of all persons interested in participating in the election, who must (i) demonstrate the compliance with the constitutional and legal requirements; (ii) submit a three-page essay justifying the reasons for their nomination; and (iii) submit five letters of reference from neighbors, colleagues or persons who support their suitability to hold the position.

- Evaluation Committees. Each Federal Power will form an Evaluation Committee, composed of five persons recognized in the legal activity, who will (i) evaluate the compliance with the constitutional and legal requirements of the candidates; and (ii) identify the best evaluated candidates according to their technical knowledge for the performance of the position, as well as their honesty, good public reputation, competitiveness, and academic and professional background in the legal activity.

- Integration of the list of candidates. The Evaluation Committees of each Federal Power will compile a list of (i) ten best evaluated persons for each vacant position in the SCJN, the Electoral Tribunal and the Disciplinary Tribunal; and (ii) six best evaluated persons for each vacant position of Magistrates and Judges in the Circuit Tribunals and District Courts. Once the lists have been compiled, they will be purged through a public sortition —lottery— to adjust it to the number of nominations for each position, observing gender equity, to be subsequently forwarded to the authority representing each Federal Power, for purposes of its approval and forwarding to the Senate. Candidates may be nominated simultaneously by one or more of the Federal Powers, if they aspire to the same position. In case the Powers do not submit their list of candidates by the deadline set forth in the call, they may not do so thereafter.

- o Purge of lists for SCJN, Electoral Tribunal and Disciplinary Tribunal. For purposes of purging the list of candidates (i) the President will nominate up to three candidates per position; (ii) the Legislative Branch will nominate up to three candidates per position: one by the House of Representatives and two by the Senate, all of them approved by the qualified vote of two thirds of its members in attendance; and, (iii) the Judicial Branch will nominate up to three candidates per position, approved by a majority of six votes of the Plenary of the SCJN. The election of candidates for these vacancies will be nationwide.

- o Purge of lists of candidates for Circuit Tribunals and District Courts. For purposes of purging the list of candidates (i) the President will nominate up to two candidates per position; (ii) the Legislative Branch will nominate up to two candidates per position —one by the House of Representatives and one by the Senate— approved by the qualified vote of two thirds of its members in attendance; and (iii) the Judicial Branch will nominate up to two candidates per position, approved by a majority of six votes of the Plenary of the SCJN. The election of candidates for these vacancies will be by judicial circuit.

- Submission of lists to INE. The Senate shall receive the nominations and shall forward the lists to the National Electoral Institute (“INE”) no later than February 12th of the year of the election, incorporating in the lists the persons who are in office at the time of the closing of the call, unless such persons declare the declination of their candidacy or are nominated for a different office or judicial circuit.

- Campaigns. During a period of sixty days, without the possibility of a pre-campaign, candidates will have equal access to radio and television spaces, in addition to participating in debate forums organized free of charge by INE or by the public, private and social sectors, always under conditions of equity; being prohibited the public or private financing of their campaigns, as well as the contracting, by themselves or through an intermediary, of spaces on radio, television or any other media to promote candidacies. Political parties and public servants may not carry out acts of proselytism, nor position themselves in favor or against any candidacy.

Results. INE shall compute the votes of the election, publish the results and deliver majority certificates to the candidates obtaining the highest number of votes, assigning the positions alternately between women and men and by subject of specialization. Likewise, it will declare the validity of the election and will send the results to the Superior Chamber of the Electoral Tribunal or to the Plenary of the SCJN, in the case of Electoral Magistrates, having to resolve the challenges before the first ordinary period of sessions of the Senate of the election year is installed, since the elected persons will take oath of office on such date before such Chamber.

Absence of judges. When the absence of one of the members of the SCJN, the Electoral Tribunal, the Disciplinary Tribunal, the Circuit Tribunales and the District Courts exceeds one month without leave of absence or such absence is due to death, resignation or any other cause of definitive separation, the vacancy shall be filled for the remaining term of the position by the person of the same gender who has obtained the second highest number of votes in the election for such position; in case of declination or impossibility, the person who has obtained the highest number of votes shall follow in order of priority.

Licenses for absence. No leave of absence may exceed one year. Leaves of absence exceeding one month must be justified and granted, without pay, by the majority of the members in attendance of the Senate or its Permanent Commission. Leaves of absence less than one month may be granted by (i) the Plenary of the SCJN, in the case of Supreme Justices; (ii) the Plenary of the Disciplinary Tribunal, in the case of its Magistrates; (iii) the Plenary of the Superior Chamber of the Electoral Tribunal, in the case of Electoral Magistrates; and, (iv) by the Judicial Administration Body, in the case of Circuit Magistrates and District Judges.

7. Judicial Administration Body. The administration and judicial career of the judicial personnel of the PFJ, including the administration of the Electoral Tribunal, will be in charge of the Judicial Administration Body, which will have technical and operational independence, for purposes of determining (i) the number, division of circuits, territorial jurisdiction, specialization by subject matter of the Circuit Tribunales and District Courts; (ii) the admission, permanence and separation of judicial and administrative career personnel, including their training, promotion and performance evaluation; and (iii) the inspection of compliance with the PFJ's administrative operating rules, among other matters.

Integration and operation of the Judicial Administration Body. The Judicial Administration Body will operate as a Plenary, composed of five persons who will serve for a term of six non-extendable years, and will be appointed (i) one person by the President; (ii) one person by a qualified vote of two thirds of the Senate members in attendance; and (iii) three persons approved by a majority of six votes of the Plenary of the SCJN. The Presidency of the Judicial Administration Body will last two years and will rotate as established by the federal laws.

Requirements of the members of the Judicial Administration Body. In order to be a member of the Judicial Administration Body, the persons appointed must (i) be Mexican by birth, in full exercise of their civil and political rights; (ii) have a degree issued with five years of seniority in law, economics, actuarial, administration, accounting or any professional degree related to the activities of the Judicial Administration Body; (iii) have five years of professional experience; (iv) not be disqualified to hold employment, position or commission in the public service; and, (v) not have been convicted of an intentional crime with jail.

Removal of members of the Judicial Administration Body. The members of the Judicial Administration Body may only be removed from office by impeachment.

General Rulings of the Judicial Administration Body. It shall be empowered to issue general ruling for the exercise of its functions, in addition to which the Disciplinary Tribunal may request the issuance of general ruling or the enforcement of resolutions for the exercise of the jurisdictional function.

Budget of the PJF. The Judicial Administration Body will be in charge of preparing the budget of the PFJ, to be included in the draft of the Federal Expenditure Budget. The Electoral Tribunal shall propose its budget to the Judicial Administration Body, for its inclusion in the budget of the PJF.

Termination of trusts and similar contracts. The PJF may not create, nor maintain in operation, funds, trusts, mandates or other similar contracts that are not provided for by law.

Service term of Circuit Magistrates and District Judges. The Circuit Magistrates and District Courts shall serve for nine years and may be reelected consecutively at the end of each term and may not be assigned outside the judicial circuit in which they were elected, except for exceptional reasons determined by the Disciplinary Tribunal. The elected Circuit Magistrates and District Judges shall take their oath of office before the Senate.

Circuit Magistrate's requirements. The requirements to be elected as Circuit Magistrate are (i) to have a law degree legally issued as of the date of the Senate's call to integrate the list of candidates; (ii) to have a general grades average of at least eight points or its equivalent and nine points or its equivalent in the specific subjects related to the position to which he or she is running for, in the bachelor's, specialty, master's or doctorate degree; (iii) have at least three years of professional practice in the legal area related to his/her candidacy; (iv) have resided in Mexico during the year prior to the publication of the Senate's call; and (v) not have been Secretary of State, Federal Attorney General, Congressman, or head of the executive branch of any State, during the year prior to the publication of the Senate's call for candidatures. Except for the above requirements, the other requirements established in the Constitution to be elected as Magistrate are provided for in Article 11 of the Judicial Career Law of the Federal Judicial Branch.

District Judge's requirements. The requirements to be elected as District Judge are: (i) to have a law degree legally issued as of the date of the Senate's call to integrate the list of candidates; (ii) to have a general grades averages of at least eight points or its equivalent and nine points or its equivalent in the specific subjects related to the position for which he or she is running, in the bachelor's, specialty, master's or doctorate degree, without it being necessary to prove professional experience or practice; (iii) to have resided in Mexico during the year prior to the publication of the Senate's call; and (iv) not having been Secretary of State, Federal Attorney General, Congressman, or head of the executive branch of any federal entity, during the year prior to the publication of the Senate's call. Except for the above requirements, the other requirements established in the Constitution to be elected as District Judges are set forth in Article 12 of the Judicial Career Law of the Judicial Branch of the Federation.

Remuneration of judges and judicial personnel. The remuneration of the judges of the SCJN, the Electoral Tribunal, the Disciplinary Tribunal, the Circuit Tribunals and the District Courts, as well as the judicial and administrative personnel of the PFJ, may not be higher than the remuneration established for the President of Mexico according to the corresponding budget.

Judicial career. The second paragraph of Article 97 of the Constitution maintains the figure of the judicial career, focusing its application exclusively on judicial personnel, comprised of Court Clerks, Judicial Officers, Public Defender's Office and other employees, eliminating its application to Magistrates and Judges who are members of the PJF. In this regard, the federal laws will establish the basis for the training, evaluation, certification and updating of judicial personnel, as well as for the development of the judicial career, which will be governed by the principles of excellence, objectivity, impartiality, professionalism, independence and gender equity. The National Judicial Training School, an auxiliary body of the Judicial Administration Body, with technical and operational autonomy, will design and implement the processes of education, training, evaluation, certification and updating of the judicial and administrative career personnel of the PJF, as well as of the public defenders who are members of the Federal Institute of Public Defense, including the competitive examinations to access the categories of the judicial career and the public defender's office.

8. Judicial Disciplinary Tribunal. The discipline of Circuit Magistrates and District Judges, as well as the judicial and administrative personnel of the PFJ will be in charge of the Disciplinary Tribunal, an integral body of the PJF, which will have technical and operational independence, as well as independence to issue its resolutions.

Integration and operation of the Disciplinary Tribunal. The Disciplinary Tribunal will operate in Plenary and in Commissions, composed of five Magistrates elected by popular vote, in accordance with the procedure set forth in Article 96 of the Constitution, who must demonstrate compliance with the requirements to be Supreme Justice of the SCJN, in addition to distinguishing themselves for their professional capacity, honesty and honorability in the exercise of their activities. The Magistrates of the Disciplinary Tribunal will serve for six years, without the possibility of reelection, and will be replaced in a staggered manner. The Presidency of the Disciplinary Tribunal shall be renewed every two years, rotating according to the number of votes obtained by each Magistrate in the respective election, with the presidency corresponding to those who obtain the highest number of votes. The Judges of the Disciplinary Tribunal shall exercise their functions with independence and impartiality.

Plenary. The Plenary of the Disciplinary Tribunal shall be the authority to substantiate and resolve in second instance matters within its competence, whose resolutions shall be adopted by a majority of four votes, which shall be final and binding. In addition, the Plenary may: (i) order ex officio or by complaint the initiation of investigations against judicial personnel; (ii) attract proceedings related to serious misconduct or facts that the laws indicate as crimes; (iii) order precautionary measures and measures of constraint; (iv) sanction Magistrates, Judges, and judicial and administrative personnel of the PJF who incur in acts or omissions contrary to the law, the administration of justice or the principles of objectivity, impartiality, independence, professionalism or excellence, which may consist of reprimand, suspension, economic sanction, removal and debarment, except in the case of Supreme Justices of the SCJN, as well as Magistrates of the Electoral Tribunal; (v) to inform the Attorney General Office for crimes commission; and, (vi) to request impeachment of Magistrates and Judges elected by vote before the House of Representatives, without prejudice to other matters determined by the federal laws.

Commissions. The Commissions of the Disciplinary Tribunal, composed of three of its Magistrates, shall conduct the administrative liability proceedings in the first instance, acting as the authority to substantiate and resolve the matters within their competence, whose decisions may be challenged before the Plenary of the Disciplinary Tribunal.

Investigations Unit. The Investigations Unit of the Disciplinary Tribunal shall conduct investigations to integrate and present before the Plenary and its Commissions the reports of probable responsibility, for which purpose it may collect evidence, request information and documentation, conduct inspections, request appearances and summon third parties to provide evidence, in addition to requesting precautionary measures and measures of constraint for the development of its investigations, among other powers that will be determined by the federal laws.

Evaluation. The Disciplinary Tribunal will evaluate the performance of PJF's Magistrates and Judges during their first year in service, for which the federal laws will establish (i) the methods, criteria and indicators applicable to such evaluation; (ii) the areas that will carry out the evaluation and follow-up of results, guaranteeing the impartiality and objectivity of the evaluating persons; and (iii) the procedures to order corrective or sanctioning measures when the evaluation is not satisfactory, as well as the strengthening measures, consisting of training and knowledge reinforcement actions; in the understanding that if the Magistrates or Judges do not prove compliance with the corrective measures, the Disciplinary Tribunal may order his/her suspension for up to one year, determining actions and conditions for his/her reinstatement. Once the suspension period has elapsed without satisfactorily accrediting the evaluation, the Disciplinary Tribunal may remove the judge without liability for the PJF, justifying and motivating the resolution.

Removal of Judges of the Disciplinary Tribunal. The Judges of the Judicial Disciplinary Tribunal may only be removed from office by impeachment.

9. Integration and operation of SCJN. The SCJN will be composed of nine Supreme Justice, only operating in Plenary, whose resolutions adopted by a majority of six votes will be binding for all the jurisdictional authorities of the country. The Supreme Justices of the SCJN will hold office for twelve years, without the possibility of reelection for a new term, and its Presidency will be renewed every two years, rotating according to the number of votes obtained by each candidate in the respective election, with the Presidency corresponding to those who obtain the highest number of votes.

Supreme Justices' requirements. In order to be elected as Supreme Justice of the SCJN, the amendment adds the following requirements (i) to have a law degree legally issued as of the date of the Senate's call for candidates; (ii) to have a general grades average of at least eight points or equivalent and nine points or equivalent in the subjects related to the position for which the candidate is running, in the bachelor's, specialty, master's or juris doctor degree; and (iii) to have at least five years of professional practice in the practice of law.

Removal of Supreme Justices. The Supreme Justices of the SCJN may only be removed from office by impeachment.

10. Integration of the Superior Chamber of the Electoral Tribunal. The Superior Chamber of the Electoral Tribunal will be integrated by seven Magistrates, who will serve for six non-renewable years. The Superior Chamber of the Electoral Tribunal will continue to be the highest jurisdictional authority in electoral matters and will additionally hear challenges to federal elections of Supreme Justices of the SCJN, Magistrates of the Disciplinary Tribunal, as well as Circuit Magistrates and District Judges.

Requirements to be a Magistrate of Regional Chamber. The Magistrates for the Regional Chambers must demonstrate compliance with the requirements to be Supreme Justice of the SCJN, in addition to those requirements that will be determined by federal laws.

11. State Judicial Branches. The states will have a term of 180 calendar days, counted as of the entry into force of the constitutional reform, to make the adjustments to the local constitutions, in order to include mainly (i) that the Magistrates and Judges be elected by direct and secret vote; and (ii) the creation of a State Judicial Discipline Tribunal and a Judicial Administration Body, with technical and operational independence, as well for issuing its resolutions, both in accordance with the bases established for the PJF.

12. Implementation deadlines. Although it is expected that there will be challenges against the constitutional reform, the following relevant deadlines derived from the transitory articles:

- Senate's call. The extraordinary electoral process 2024-2025 began with the publication of the reform in the Federal Official Gazette, for which the Senate will have a term of 30 calendar days as of such publication, to issue the call to integrate the lists of candidates who wish to participate in the election of vacancies in the PJF.
- Extraordinary election of 2024-2025. An extraordinary election will be held to elect (i) all the Supreme Justices of the SCJN; (ii) all the Magistrates of the Regional Chambers of the Electoral Tribunal; (iii) the vacant Magistrates of the Superior Chamber of the Electoral Tribunal; (iv) all the Magistrates of the Disciplinary Tribunal; and (v) half of the Circuit Magistrates and District Judges, which will be determined by public sortition.
- Ordinary federal elections in 2027. Together with the ordinary elections of 2027, the remaining half of the Circuit Magistrates and District Judges will be elected.
- State Elections. The renewal of all the positions of Magistrates and Judges of the State Judicial Branches must conclude in the ordinary federal election of 2027, in the understanding that, in any case, the local elections must coincide with the date of the extraordinary election of 2024-2025 or the ordinary federal election of 2027.

The lawyers of Mañón Quintana are at your service to attend and resolve any question related to the scope of this constitutional reform.

Sincerely,

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