

Mexico City, March 16, 2021.

## **Constitutional amendments to Mexico's Federal Judicial Branch.**

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On March 11, 2021, the Federal Government published in the Federal Official Gazette the Decree that amended several provisions of the Federal Constitution ("Constitution") related to the Federal Judicial Branch ("FJB").

The purpose of this Decree is to reorganize the internal structure of the FJB, the functions of the bodies that comprise it, as well as the scope of the constitutional-jurisdictional control proceedings provided for in the Constitution. Below, we summarize the most relevant aspects of the amendments:

### **A. Changes in the internal structure of the FJB.**

#### Reorganization of the judicial bodies

- The Unitary Circuit Courts will be eliminated and replaced by Collegiate Courts of Appeal, which will be composed by three Magistrates.
- Circuit Plenaries will be eliminated and replaced by Regional Plenaries, which will have jurisdiction over those circuits determined through the issuance of the corresponding General Regulations.

#### Reorganization of the judicial career

- The principles of excellence, objectivity, impartiality, professionalism, independence, and gender equality are incorporated as guiding principles of the judicial career.
- A new structure of the judicial career is envisaged for FJB officials.

### **B. Changes in the functions of the bodies that comprise the FJB.**

#### Functions of the Supreme Court of Justice

- The Supreme Court of Justice ("SCJN") is given greater independence in the definition of its jurisdictional policy related to the issuance of General Regulations, to achieve an adequate distribution of cases between its Chambers, as well as to refer certain matters to the Collegiate Circuit Courts which will no longer be subject to matters in which there is case law.
- The SCJN will only resolve the contradiction of criteria between the Regional Plenaries or the Collegiate Circuit Courts belonging to different regions those that arise between Collegiate Circuit Courts of the same region will correspond to the competent Regional Plenary.
- A system of integration of case law by precedents is created for the SCJN, in which the reasons of the decisions adopted by a qualified majority (8 of the 11 Justices) will be mandatory for all judicial bodies.

Functions of other bodies of the FJB.

- Jurisdiction over the incidents of substitute performance of amparo judgments will be conferred to the judicial bodies that issued them freeing the SCJN from this function.
- The Federal Judiciary Council may concentrate in one or more jurisdictional bodies those cases regarding serious human rights violations. The decision on the suitability of the concentration must be made based on the social interest and public order, which will constitute an exception to the rules of competence and jurisdiction.

**C. Changes in the scope of the constitutional-jurisdictional control proceedings.**

Constitutional disputes (*controversias constitucionales*).

- The autonomous bodies of the federal entities are expressly authorized to file constitutional disputes.
- Constitutional disputes may only concern violations to the Constitution or to human rights recognized in international treaties.

Constitutional remedy proceedings (*juicio de amparo*).

- The so-called sovereignty remedy proceeding (*amparo soberanía*) will be eliminated with respect to disputes between the States and the Federation (sections II and III of article 103 of the Constitution).
- Regarding direct remedy proceedings (*juicio de amparo directo*), the admission of the motion for review on constitutional issues must be of exceptional interest in constitutional or human rights matters thus, leaving aside the standard of importance and significance required before the amendments. In addition, no remedy will be allowed against the decision that dismisses the motion for review during an *amparo directo en revision* proceedings.
- If in any motion of review filed within an *amparo directo en revision* proceeding, the SCJN finds unconstitutional a general rule, it will report it to the corresponding issuing authority. In case that a Collegiate Circuit Court establishes case law (*jurisprudencia*) by reiteration or the SCJN by precedents, in which the unconstitutionality of a general rule is determined, the issuing authority will be notified of such decision. If a period of 90 days elapses without the unconstitutionality problem being resolved by such authority, the SCJN will issue the corresponding general declaration of unconstitutionality, provided that said decision is adopted by a qualified majority.

As a result of the publication of the Decree and in view of the significance of the amendments, we can expect that the SCJN will soon inaugurate the Eleventh Period of the Federal Judicial Weekly Publication which spreads the case law issued by the judicial bodies.

As of the entry into force of the Decree (March 12, 2021), Mexico's Congress has a period of 180 days to approve the secondary legislation derived from it, among which possibly there will be: (i) a new Organic Law of the FJB and the Law of Judicial Career of the FJB; (ii) amendments to the Federal Labor Law for Government Workers; (iii) amendments to the Federal Public Defender's Office Law; (iv) amendments to the Amparo Law; and, (v) amendments to the Federal Code of Civil Proceedings.

The attorneys of Mañón Quintana will be glad to discuss or address any questions related to the scope of the Decree.

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