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GORCHES Y PEÑALOSA**CONSTITUTIONAL. THE MEXICAN SUPREME COURT OF JUSTICE (“SCJN”) ADMITS THE CONSTITUCIONAL CONTROVERSY FILED BY THE NATIONAL ELECTORAL INSTITUTE (“INE”) AND GRANTED THE INJUNCTION TO SUSPEND THE EFFECTS OF THE SECOND PACKAGE OF REFORMS OF THE ELECTORAL “PLAN B”**[More Information...](#)

On March 24th, 2023, the Justice of the SCJN, Javier Laynez Potisek, admitted the Constitutional Controversy submitted by the INE under the file number 261/2023 and granted the injunction to suspend the effects of the “*Decree amending and adding various provisions of the General Law on Electoral Institutions and Procedures, the General Law on Political Parties, the Organic Law of the Judicial Power of the Federation, and that issues a new General Law on Electoral Dispute Resolution*”, published in the Federal Official Gazette on March 2nd, 2023, and that constitutes the second package of laws sought to be reformed in relation to the so-called “Plan B” in electoral matters.

In this regard, such Justice granted the injunction to suspend the effects of the Decree in question, for the purpose that things will remain in their current state, the articles of the mentioned Decree will not be applied, and the provisions that were in force before will continue to be applicable, since if the Decree is not suspended:

- the INE would not be able to operate regularly and comply with its constitutional purpose and functions, which would cause a decline in its operational capabilities and therefore a consequent violation of the national democratic system;
- its application could cause irreparable harm to the political and electoral rights of the citizens as a result of the operational and budgetary disruption of the INE;
- the guarantee of equity in the electoral competition would be compromised;
- the integrity of the Electoral Register could be compromised;
- it could result in the violation of the human rights related to the handling of personal information of all individuals who are part of the Electoral Register; and
- its application would detriment the labor-related human rights of the public servants assigned to the INE, as areas are unduly suppressed and personnel of the INE is let go through the Decree.

CONSTITUTIONAL. THE SCJN RULED ON SCOPE OF THE RIGHT OF ACCESS TO JUSTICE IN ITS ASPECT OF MATERIAL EXECUTION OF FINAL RULINGS AND THE PRINCIPLE OF PROCEDURAL EQUALITY[More Information...](#)

The First Chamber of the SCJN resolved the amparo appeal 144/2021, which arose from a civil lawsuit against a federal public administration entity for breach of contract. In this regard, during the enforcement of the final ruling stage, the plaintiff requested the voluntary compliance of the condemnatory ruling and, after the abstention of such compliance, requested the forced fulfillment and the seizure of accounts of said public institution.

The judge denied the seizure request based on Article 4 of the Federal Code of Civil Procedures -*which establishes, among other things, that an order of seizure can never be issued against federal public administration entities*-, which was thereafter confirmed in the appeal ruling.

Against the previous resolution, the plaintiff filed an amparo claim, which was denied on the grounds that there was no violation to the rights of equality, due process, and access to justice; consequently, against such dismissal, the plaintiff filed this amparo appeal.

In this regard, the First Chamber of the SCJN determined that **a)** the human right of access to justice, being of complex content, includes the stages before, during, and after the trial, therefore, it comprehends the possibility that the judgment issued has full effectiveness through its execution, and **b)** the procedural equality, being an aspect of the rights to due process and legal equality, demands a reasonable equality of possibilities in the exercise of each of the parties’ claims and establishes the guidelines for the judge’s actions.

The foregoing, since:

(i) Based on the Constitution and international treaties, as well as various national and international precedents, the **right of access to justice** implies that access is not limited to the ability to submit a controversy before the courts and that it is substantiated according to procedural guarantees. It also includes the possibility that the ruling has full effectiveness through its enforcement.

Therefore, for the State to guarantee its effectiveness, it is not enough the existence of jurisdictional processes and resources, but these must be effective, which implies, among other things, the enforcement of rulings and/or resolutions in a reasonable time, even when the State, as a party, fails to comply with the execution of a sentence or resolution.

(ii) With respect to the principle of **procedural equality**, which is part of the human right of due process and legal equality, it seeks to balance opportunities for both parties in the process and is also considered a rule of conduct for the judge to maintain that equality as much as possible while conducting proceedings, in order to ensure that the positive outcome of one of the parties is not determined by their advantageous situation, but by the rules of due process.

In this regard, the jurisprudence criterions [2026051](#) and [2026079](#) were published under the following titles: “*RIGHT OF ACCESS TO JUSTICE. CONTENT, STAGES AND SCOPE OF ITS MATERIAL EXECUTION OF RULINGS*” and “*PRINCIPLE OF PROCEDURAL EQUALITY. ITS SCOPE AND GROUNDS*”.

ADMINISTRATIVE LITIGATION. CIRCUIT COURT DETERMINES THAT THE RESOLUTIONS RELATED TO THE INVESTIGATION PROCEDURE IN MATTERS OF UNFAIR INTERNATIONAL TRADE PRACTICES (ANTIDUMPING) MUST BE ANALYZED UNDER THE PARAMETERS OF REGULATORY ADMINISTRATIVE LAW[More Information...](#)

The First Circuit Court in Administrative Matters Specialized in Antitrust, Broadcasting, and Telecommunications, located in Mexico City and with jurisdiction throughout the Republic, resolved the amparo appeal 112/2021, resolving that the standard for judicial review of resolutions issued within the investigation procedure in matters of unfair international trade practices, must be carried out under the parameters of regulatory administrative law.

This matter arose from an antidumping investigation initiated by the Secretary of Economy against a company for the importation of a product from the People’s Republic of China, where in the final resolution, the authority imposed a definitive countervailing fee on said legal entity for such practices.

In this regard, the aforementioned Court reached said conclusion, since the Mexican Constitution provides for the model of a regulatory State that has the purpose of addressing very specific technical needs, which is why certain government agencies are granted powers to regulate such specialized matters.

Likewise, based on the SCJN’s jurisprudence, the use of regulatory agencies takes into account that technical regulation requires a constant process of review and modification; situations that could not be carried out repeatedly if they were subject to the traditional legislative process, so different bodies would have regulatory competence.

In this sense, the Secretary of Economy would be titled to implement the procedure on unfair international trade practices (anti-dumping investigation procedure), since it would be exercising powers that fall within the regulatory state model, as they would be related, among others, to economic stability and free competition.

COMMERCIAL LITIGATION. THE FIRST CHAMBER OF THE SCJN DETERMINED THAT THE RESOLUTION THAT DECIDES ON THE VALIDITY OF A SUMMONING TO A COMMERCIAL ENFORCEMENT CLAIM WHEN THE FINAL RULING HAS NOT YET BEEN ISSUED, CONSTITUTES AN IRREPARABLE HARM, AND THEREFORE CAN BE CHALLENGED IN AN AMPARO CLAIM[More Information...](#)

The First Chamber of the SCJN resolved the criteria contradiction 239/2022, between different Circuit Courts, that dissented about the amparo claim admissibility -*for constituting irreparable harm*- or -*as a procedural violation*-, when challenging the validity of the summoning to a commercial execution claim when no final ruling has yet been issued.

In that sense, the First Chamber determined that the amparo claim is admissible for constituting irreparable harm, since the validity of the summoning in a commercial execution claim is an act that may affect substantive rights, since it would have direct consequences on the other two acts -*payment request and seizure*- since these three different procedural acts are closely linked.

The foregoing, because although the diligence of payment request, seizure, and summoning to a commercial execution claim is made up of three different acts, they are closely linked, so the nullity of the summoning generates the same consequence in the other acts, as it implies the non-compliance with the requirement to which the request and the seizure are subject.

Also, based on the jurisprudence criteria 1a./J. 74/2019 (10a.), the seizure carried out in an executive claim constitutes an act that has effects that are impossible to repair for materially affecting substantive rights of the seizing person from the moment it is done, by limiting the disposal and enjoyment of the seized goods.

Therefore, the resolution that determines the validity of the summoning to a commercial execution proceeding is an act capable of affecting substantive rights, since its validity has a direct impact on other linked procedural acts, including the seizure. If the summons is deemed valid, the limitation on the seized goods would be maintained, and on the other hand, if it is determined invalid the defendant could release the goods and dispose of them.

In regard with the foregoing, a jurisprudence was published under the following title: “*SUMMONS IN AN EXECUTIVE COMMERCIAL CLAIM. THE RESOLUTION THAT DECIDES ON ITS VALIDITY, WHEN A FINAL RULING HAS NOT YET BEEN ISSUED, CONSTITUTES AN ACT SUSCEPTIBLE OF AFFECTING SUBSTANTIVE RIGHTS AND CAN BE CHALLENGED IN AN INDIRECT AMPARO CLAIM.*”, with registration number [2026056](#).

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