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CIVIL. THE FIRST CHAMBER OF THE MSCJ DETERMINED THAT THE PARTICIPATION OF THE PRINCIPAL DEBTOR IN THE BOND CLAIMS PROCEEDING IS IMPERATIVE

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The First Chamber of the MSCJ, resolved the constitutional appeal 196/2022 and confirmed the ruling of the Eleventh District Court in Civil Matters of Mexico City, which denied amparo and recognized the constitutionality of Articles 280 and 289 of the Insurance and Bonds Institutions Law by not violating the due process rights of the principal debtor. Despite the fact that in the special bond proceedings the participation of the principal debtor is contingent, their participation in the bond claims proceedings is imperative, as bond institutions are obligated to inform them of the submission of the claim by the beneficiary and to request that they provide the information and documentation they have that may assist the bond company in deciding on the validity of the claim.

This decision is based on the fact that the claims proceedings and the special bond proceedings *-regulated in the second chapter of the Insurance and Bonds Institutions Law-* involve the participation of the principal debtor so that, they may present all relevant information and documents to demonstrate compliance or non-compliance with the obligation guaranteed by the bond. However, the law treats the involvement of the principal debtor differently in each proceeding. That is, in the claim proceeding, their participation is mandatory, whereas in the special bond proceeding, it is contingent.

Furthermore, the MSCJ pointed out that from the systematic interpretation of Articles 279 and 289 of the aforementioned Law, it is concluded that the claims proceeding is a route that must be exhausted before resorting to the special bond proceeding, so it is reasonable to provide for the mandatory joining of the principal debtor to said process. With this, the bond companies are required to inform the principal debtor of the submission of the claim and to request that they provide the information and documentation they have, so that, from this stage, the bond company has all the available information and documentation to determine the validity of the claim.

CONSTITUTIONAL. THE FIRST CHAMBER OF THE MSCJ DETERMINED THAT BANKING INFORMATION GATHERED BY FEDERAL TAX AUTHORITIES FOR FISCAL PURPOSES MAY BE PART OF THE COMPLAINT OR ACCUSATION FILED FOR THE INVESTIGATION OF CRIMES COMMITTED AGAINST THE FEDERAL TREASURY, EVEN IF IT HAS NOT BEEN OBTAINED THROUGH JUDICIAL CONTROL

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The First Chamber of the MSCJ, resolved the constitutional appeal 470/2021 and determined as an exception to banking secrecy, that the banking information collected by the Ministry of Finance and Public Credit in the exercise of its verification faculties regarding tax obligations compliance, can validly be part of the complaint or accusation filed before the public prosecutor against an individual, without requiring a prior judicial control ruling for its validity.

The MSCJ based its resolution on Article 142, Fraction IV, of the Credit Institutions Law, which refers to the obtaining of banking information by federal tax authorities for the investigation, auditing, or verification of tax obligations of the holder as a taxpayer. Therefore, if as a result of exercising that power, tax authorities consider that there is a probable commission of an act defined by law as a crime, public servants are obliged to file a complaint or accusation and provide the data they have to the public prosecutor's office.

Furthermore, the MSCJ emphasizes that due to the origin of the obtaining of banking information of a person by federal tax authorities, it is not necessary for their request to be subjected to prior judicial control, since its acquisition is not carried out within the framework of a criminal investigation, as it does not have the character of an investigative technique, precautionary measure, or precautionary provision, which must be authorized by a control judge in accordance with the rules established in the National Code of Criminal Procedures.

In this regard, as prior judicial control is not applicable to the request of the federal tax authority under the referred terms, the banking information gathered from that request can validly be provided to the complaint or accusation filed before the public prosecutor's office, without affecting the privacy of individuals, nor preventing the control judge from subsequently verifying whether the procedure for obtaining that information complied with the requirements set forth in Article 142, Fraction IV, of the Credit Institutions Law and Article 16 of the Mexican Constitution.

CONSTITUTIONAL. THE REGIONAL PLENARY IN CIVIL MATTERS OF THE CENTRAL-NORTHERN REGION RULED THE CASES IN WHICH THE AMENDMENT OF THE AMPARO CLAIM IS ADMISSIBLE IN ACCORDANCE WITH THE INTERPRETATION OF ARTICLE 111 OF THE AMPARO LAW

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The Regional Plenary in Civil Matters of the Northern Region, in Mexico City, resolved the contradiction criteria 60/2023, and determined that that the amendment of the amparo claim is admissible when the challenged act in the amendment claim is a consequence of the one challenged in the initial amparo claim writ, or vice versa; if both immediately and directly recognize the same origin; to prevent contradictory rulings from being issued, or to avoid dividing the continuity of the case.

In this regard, this matter arose from a contradictory criteria regarding whether the challenged acts in the amendment writ of the amparo claim that were not closely related to those challenged in the initial amparo claim writ, while others considered that there was indeed a close relationship between the challenged acts in both writs.

In this sense, the decision is based on the objective grounds that the purpose of amending an amparo claim writ is to have a single ruling that decides the constitutionality of the challenged act in the initial writ and the one challenged in the amendment writ; thus, it is to be understood that the *"close relationship"* referred to in Article 111 of the Amparo Law, as a condition for the admission of the amendment, is one that results from the challenged act in the amendment being a consequence of the initially challenged act of, or vice versa; both immediately and directly recognizing the same origin; to prevent contradictory rulings, or to avoid splitting the pendency of the case.

CONSTITUTIONAL. A CIRCUIT COURT ("CC") DETERMINED THAT ARTICLE 5°, FIRST PARAGRAPH, OF THE CONSTITUTION OF THE STATE OF CHIHUAHUA IS UNCONSTITUTIONAL

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The Second Circuit Court of Criminal and Administrative Matters of the Seventeenth Circuit, resolved the constitutional appeal 1339/2022 and determined that the normative portion stating that every human being has the right to legal protection of their life **"from the moment of conception itself"**, contained in the first paragraph of Article 5 of the Constitution of the State of Chihuahua, is unconstitutional.

This decision is based on the fact that the Mexican Supreme Court of Justice ("MSCJ") in the unconstitutionality action 106/2018 and its accumulated 107/2018, held that affirming that life from conception deserves the same protection as women and pregnant people, has constitutionally unacceptable implications, as it alters the cultural and social meaning of rights and contributes to the construction of a social imaginary adverse to the exercise of the rights of that community, since it promotes the belief in the ethical incorrectness of abortion.

In this sense, the referred normative portion has the purpose and sufficient potential to limit the access of women and pregnant people to the proper protection of their human rights, to reproductive autonomy, to life, to non-discrimination, to health, and to personal integrity, as it diminishes, affects, or undermines those rights; therefore, it is not up to the Local Legislature to determine the intensity and character of the legal protection of life in gestation, especially since it alters the essential concept provided by the Constitution and international treaties on human rights.

The foregoing, understanding that life in gestation has a particular dignity deserving of protection by the State, which must be gradually increased without disproportionately affecting the human rights of women and pregnant people.

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