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ADMINISTRATIVE. A CC RULED THAT AMPARO CLAIMS ARE ADMISSIBLE AGAINST A VERIFICATION VISIT ORDER CARRIED OUT IN AN INVESTIGATION OF MONOPOLISTIC PRACTICES BY THE ANTITRUST / FEDERAL ECONOMIC COMPETITION COMMISSION ("COFECE"), DIRECTED AT A PERSON OTHER THAN THE PLAINTIFF

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The Second Circuit Court on Administrative Matters Specialized in Economic Competition, Broadcasting, and Telecommunications, based in Mexico City and with jurisdiction throughout the Republic, resolved the constitutional appeal 369/2022 and determined that amparo claims are admissible against a verification visit order carried out in an investigation of monopolistic practices by the COFECE, directed at a person other than the plaintiff.

This decision is based on the interpretation of Contradiction of Thesis 7/2016, where the former Plenary on Administrative Matters Specialized in Economic Competition, Broadcasting, and Telecommunications held, regarding the restriction contained in Article 28, twentieth paragraph, section VII, of the Mexican Constitution, that amparo claims are not admissible against intraprocedural acts carried out by COFECE. To reconcile this with the rights to judicial protection, access to justice, and an effective judicial remedy contained in Article 17, second paragraph, of the Constitution, and Articles 8 and 25 of the American Convention on Human Rights, it was determined that for an act to be considered intraprocedural, it must (i) be issued within a procedure; and (ii) the challenge to the harm caused must be deferred until the final resolution.

However, the second requirement is not met when challenging a verification visit order in economic competition matters directed at a person other than the plaintiff, as the defense against the harm suffered to their right to the inviolability of domicile cannot be postponed until the issuance of the probable responsibility opinion, which concludes an investigation procedure on monopolistic practices. This is because the person affected is a third party unrelated to that procedure. Consequently, the amparo claim is admissible from the moment the verification visit order is known.

CIVIL. A CC RULED THAT JUDGES MAY SEEK A LEGAL HERMENEUTICS TO DISCERN THE MEANING AND SCOPE OF A SPECIFIC NORMATIVE ASSUMPTION WHEN IT IS NOT POSSIBLE THROUGH THE EXPLANATORY MEMORANDUM OF THE LAW

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The Sixth Circuit Court of the Fifteenth Circuit resolved the amparo claim 303/2023 and determined that judges may seek a legal hermeneutics to discern the meaning and scope of a specific normative assumption when it is not possible through the explanatory memorandum of law.

Legal hermeneutics is the discipline that deals with the interpretation of legal norms, seeking to understand their meaning and scope in different contexts. It recognizes that laws do not have a fixed meaning, but that their interpretation may vary according to the legislator's intention and the circumstances of the case. It uses various techniques, such as textual analysis and the study of the historical and social context, to apply the law in a fair and equitable manner, allowing judges and lawyers to argue adequately about the rules.

This decision is based on the isolated thesis P. XVIII/2007 issued by the Plenary of the SCJN, titled: *"REVIEW IN AMPARO CLAIM. IT IS SUFFICIENT TO USE ONE OF THE METHODS OF DIRECT INTERPRETATION OF A CONSTITUTIONAL PROVISION TO MEET THE REQUIREMENT FOR THE ADMISSIBILITY OF THAT APPEAL"* which establishes that the legal interpreter may resort to any of the methods of interpretation, such as grammatical, analogical, historical, logical, systematic, causal, or teleological, to discern, clarify, or reveal the meaning of a norm, considering the intent of the legislator or the linguistic, logical, or objective sense of the words. While to determine the scope and intention of the legislator in regulating a specific legal hypothesis, it would ideally, initially, resort to the justifications contained in the statement of reasons that gave rise to it; however, when for some reason its review or consultation is not possible, it brings with it an impediment for the legal operator that allows resorting to legal hermeneutics through the interpretation of the norm according to the various existing methods.

CONSTITUTIONAL. THE REGIONAL PLENUM IN ADMINISTRATIVE AND CIVIL MATTERS DETERMINED THAT PROVISIONAL INJUNCTION IN AMPARO CLAIM IS INADMISSIBLE AGAINST THE OMISSION TO RESPOND TO A REQUEST MADE IN TERMS OF ARTICLE 8° OF THE MEXICAN CONSTITUTION

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The Regional Plenum in Administrative and Civil Matters of the Central-South Region, based in Mexico City, resolved the Contradiction of Criteria 91/2024 and determined that provisional injunction in amparo claim is inadmissible concerning the omission to respond to a request made in exercise of the right recognized in Article 8 of the Constitution.

This matter derived from diverse criteria held by the Circuit Courts when examining whether, regarding the omission to respond to a request made in exercise of the right recognized in the aforementioned article, it is appropriate to grant the provisional injunction for the effect that the defendant authority issues a response. While one court considered it appropriate, the other did not.

The decision of the Plenum's was based on the Contradiction of Thesis 338/2022 issued by the Second Chamber of the Mexican Supreme Court of Justice ("SCJN"), which determined that the judge should generally consider, when analyzing the possibility of granting the injunction of the challenged act with restorative effects, that this benefit is temporary. Therefore, if the main issue were resolved contrary to the plaintiff's claim, the effects derived from that injunction could be retroactively nullified.

Consequently, it is inadmissible to grant a provisional injunction for the effect of responding to a request made in exercise of the right of petition, because it would grant a definitive benefit that could not be retroactively nullified in case of an adverse final ruling, as the plaintiff would have already received a response, in whatever sense, thereby immediately and uniquely fulfilling the purpose of the action.

AMPARO. A CIRCUIT COURT "CC" DETERMINED THAT THE APPEAL PROVIDED IN ARTICLE 97, SECTION I, SUBSECTIONS (E) AND (G), OF THE AMPARO LAW, IS INADMISSIBLE AGAINST THE ORDER THAT DISMISSES EVIDENCE IN THE ANCILLARY PROCEDURE TO DETERMINE THE EXCESS OR DEFICIENCY IN THE COMPLIANCE OF THE DEFINITIVE INJUNCTION

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The Eighth Circuit Court in Criminal Matters of the First Circuit, resolved the appeal 89/2024 and determined that the appeal provided in Article 97, Section I, Subsections (e) and (g), of the Amparo Law, is inadmissible against the order that dismisses evidence in the ancillary procedure to determine the excess or deficiency in the compliance with the definitive injunction.

This decision is based on the fact that, in accordance with Section I, Subsection (g), of the mentioned provision, in the case of the procedure to determine the excess or deficiency in the compliance with the definitive injunction, the appeal only proceeds against the determination that resolves it. If during its process the parties consider that they were deprived of some procedural right due to the dismissal of certain evidence, this must be asserted when challenging the resolution that ends the procedure, as it may affect the outcome of the decision. In such a case, the appeal would order the procedure to be repeated, nullifying both the challenged decision and its effects. Therefore, it is not possible to frame within the generic assumption provided in Subsection (e) of the cited Section the determinations issued during the processing of the instance to determine the excess or deficiency in the compliance with the injunction, as they do not cause irreparable harm to the parties, since they can be addressed when appealing the final determination of the procedure.

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