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## **AMPARO. THE REGIONAL PLENARY COURT FOR ADMINISTRATIVE AND CIVIL MATTERS OF THE CENTRAL-SOUTH REGION, BASED IN MEXICO CITY, DETERMINED THAT THE EXCEPTION TO RESOLVE ON THE PROVISIONAL SUSPENSION UNDER ARTICLE 53 OF THE AMPARO LAW ONLY APPLIES WHEN THE PRESIDING JUDGES WHO RECUSES THEMSELVES IS A PARTY TO THE AMPARO PROCEEDINGS**

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The Regional Plenary Court for Administrative and Civil Matters of the Central-South Region, based in Mexico City, resolved contradiction of criteria 114/2024 and determined that the exception to ruling on the provisional suspension under Article 53 of the Amparo Law only applies when the presiding judges who recuses themselves is a procedural party in the amparo proceedings under review.

The case arose from contradictory interpretations by certain CC regarding the phrase “having a personal interest in the matter” under Article 53 of the Amparo Law. One court held that this phrase refers to being a party in the specific amparo case, while others linked it to the cause for recusal under Article 51, Section II, interpreting it as a direct, material, and financial interest of the judge, excluding their spouse or relatives.

The decision is grounded on the interpretation of Article 53 of the Amparo Law, which emphasizes the observance and prevalence of the characteristics of provisional suspension, aimed at providing prompt provisional protection in the face of potential harm arising from delays in rendering a final ruling. Thus, even when a judge considers themselves to fall under a cause for recusal as provided in Article 51 of the same law, the urgency of the matter obligates them to rule on the provisional suspension of the challenged act.

The sole exception to the obligation to rule on the provisional measure, defined as “having a personal interest in the matter,” must be interpreted narrowly and strictly in the most objective and easily identifiable manner. It only applies when the presiding judge is formally a party in the amparo proceedings. This narrow interpretation avoids engaging in evidentiary evaluations that could hinder or delay the provisional ruling. It aligns with the characteristics of provisional measures, ensuring a response with the urgency required for their issuance.

## **AMPARO. THE FIRST CHAMBER OF THE SCJN DETERMINED THAT THE OMISSION IN THE ISSUANCE OF THE RULING IN AN AMPARO CLAIM PROCEEDED WITH THE APPEAL WHEN MORE THAN NINETY DAYS HAVE ELAPSED ONCE THE FILE IS IN READY FOR THE ISSUANCE OF THE RESOLUTION**

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The First Chamber of the SCJN, resolved contradictory criteria 102/2023, and determined that appeal provided in article 97, section I, paragraph e), of the Amparo Law, against the omission to issue a ruling in an amparo claim, when the reasonable period of ninety days has elapsed from the date on which the case file was duly filed and ready for resolution.

In this regard, this matter derived from the fact that the contending District Courts sustained contradictory criteria when examining whether the failure to issue a ruling in the constitutional hearing of an amparo claim, it is appropriate to file an appeal for the delay. While one rejected the appeal, since the law does not expressly establish an appeal for failure to issue a ruling in an amparo proceeding, the other considered that the appeal could be filed.

In this sense, the Chamber based its decision on the fact that article 183 of the Amparo Law establishes a ninety-day term for the issuance of the judgment in the amparo claim.

This period of ninety days represents a reasonable reference to determine at what moment an omission to issue a ruling in amparo claims occurs. To consider the contrary, that is, that the District Courts do not have a time limit to issue rulings in amparo claims, would generate a violation of the human right to effective judicial protection provided for in Article 25 of the American Convention on Human Rights and Article 17 of the Mexican Constitution.

In view of the foregoing, the appeal provided in Article 97, section I, paragraph e), of the Amparo Law is applicable when a delay of the District Courts to issue a ruling in the amparo claim is challenged and ninety days have elapsed since that omission.

Now, if upon receiving the appeal the CC notices that this term has not elapsed, it may dismiss the appeal out of hand since the omission attributed to the amparo court does not yet exist. Likewise, it must analyze on a case-by-case basis whether the delay in the issuance of the decision is justified or not.

## **AMPARO. THE SECOND CIRCUIT COURT IN LABOR MATTERS (“CC”) RESOLVED THAT THE APPEAL PROVIDED IN ARTICLE 97, SECTION II, PARAGRAPH B), OF THE AMPARO LAW AGAINST THE MODIFICATION OR REVOCATION OF THE SUSPENSION (INJUNCTION) OF THE CHALLENGED ACT DUE TO SUPERVENING FACTS IS ADMISSIBLE**

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The CC in Labor Matters of the Seventh Circuit resolved appeal 160/2023 and determined that against the resolution that modifies or revokes the suspension in an amparo claim due to supervening fact, the appeal provided in article 97, section II, paragraph b) of the Amparo Law is applicable.

The case arose from an amparo claim filed in which this CC decreed the suspension of the challenged ruling in favor of the employer. Derived from supervening facts that the plaintiff in the original proceeding made known to it, it modified it *ex officio*.

This decision is based on the interpretation of the aforementioned precept, since although it is true that it establishes that the appeal may be filed when in an amparo claim the authority does not provide the suspension within the legal term, grants or denies it, or acts with respect to bonds in an inadequate manner, it must be interpreted that it also applies to challenge resolutions where the authority modifies or revokes resolutions on the suspension of the challenged act, including those that deny the revocation or modification due to supervening facts.

Such legal precept must be interpreted in a broad and harmonic conception with the fundamental rights to effective judicial protection and access to justice, and consequently, to consider the means of challenge to controvert such action of the responsible authority as appropriate. Otherwise, it would violate the principle of procedural equality, since in this scenario the plaintiff could not file this appeal when the responsible authority determines to modify or revoke the conditions or guidelines of the suspension granted due to the supervening facts made known by the opposing party, which would be inequitable and contrary to the aforementioned fundamental rights.

## **ADMINISTRATIVE. THE SECOND CHAMBER OF THE MEXICAN SUPREME COURT OF JUSTICE (“SCJN”) DETERMINED THAT ARTICLE 13 QUINTUS, SECTIONS I, III AND IV, OF THE ORGANIC STATUTE OF THE FEDERAL CONSUMER PROTECTION AGENCY (“PROFECO”), IN FORCE UNTIL JANUARY 30, 2020, DOES NOT VIOLATE THE RIGHT TO DUE PROCESS IN CONNECTION WITH THE PRINCIPLES OF PRESUMPTION OF INNOCENCE, SEPARATION OF FUNCTIONS AND IMPARTIALITY**

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The Second Chamber of the SCJN, resolved constitutional appeal 3007/2024 and determined that article 13 Quintus, sections I, III and IV, of the Organic Statute of the Federal Consumer Protection Agency, in force until January 30, 2020, does not violate the right to due process in relation to the principles of presumption of innocence, separation of functions and impartiality.

This decision is based on the interpretation of Article 21, paragraph four, of the Mexican Constitution, which does not require that the stages of the administrative sanctioning procedure be processed or consummated by officials of a different nature. The fact that the general director of Procedures and Advertising Analysis of Telecommunications who investigates is the same one who instructs and resolves the procedure in matters of advertising or information on products or services, does not imply a transgression to the Fundamental Law.

In the institutional context in which the responsibility in the matter of consumer protection is settled, the important thing is to distinguish the role it plays at each moment: at the beginning of the procedure as investigator and accuser, and later as the one in charge of instructing the procedure and issuing the final resolution, respecting the fundamental rights applicable to each phase. That is to say, the underlying duty is to act at each stage of the proceeding in accordance with the nature and purpose of each stage.

By virtue of the foregoing, the pronouncements that finalize them will depend not only on the elements that are gathered in each one, but also on the degree of conviction that they require. This does not imply that the statutory precept contains any component that leads the authority to conclude in advance and without legal support the existence of the irregular conduct.

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