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**AMPARO CLAIM: EXCEPTION TO THE PRINCIPLE OF DEFINITIVENESS. CIRCUIT COURT RULED THAT IT IS UNNECESSARY TO PREVIOUSLY EXHAUST THE ADMINISTRATIVE CLAIM BEFORE FILING THE AMPARO CLAIM, SINCE THE SUSPENSION PROCEDURE REQUEST MORE REQUIREMENTS TO GRANT THE INJUNCTION OF THE CHALLENGED ACT** [More Information...](#)

The First Circuit Court of the Twenty-Fourth District ("1st CC") resolved the appeal number Q.A.728/2022, which determined that the plaintiff would not be obliged to submit nullity claim prior to filing the amparo claim when he affirms to have a legal interest. This is based on the provision contained in Article 28, Section I, Subsection b) of the Federal Law of Administrative Claims, which states that to grant the suspension of the challenged act, it is required that the damages or harm caused to the plaintiff by its execution be difficult to repair, a requirement that is no longer demanded by the current Amparo Law.

In this regard, the appeal resulted from an amparo claim filed against the order to review documents issued in a verification procedure by the Decentralized Tax Audit Administrator of Nayarit of the Tax Administration Service ("SAT"). In this case, the District Court ruled to dismiss the claim outright, considering that the principle of definitiveness had not been exhausted, thus triggering the grounds for dismissal provided in Article 61, Section XX of the Amparo Law, under the consideration that prior to presenting an amparo claim it should have been filed a nullity claim before the Federal Administrative Court ("FAC").

As a justification, the 1st CC pointed out that the Plenary of the Mexican Supreme Court of Justice, in the jurisprudential criteria P./J. 19/2020 (10th), established that, regarding the suspension at the request of a party, Article 128 of the current Amparo Law no longer requires the demonstration of damages and/or harm difficult to repair due to the execution of the challenged act, a requirement that is indeed included in Article 28, Section I, Subsection b) of the Federal Law of Administrative Claims, thus such Law is imposing greater requirements than the Amparo Law for the granting of the injunction/suspension.

**CONSTITUTIONAL / FREEDOM OF SPEECH. CIRCUIT COURT RULED THAT FREEDOM OF SPEECH CONTAINED IN THE FEDERAL CONSTITUTION DOES NOT ALLOW AUTHORITIES TO ENGAGE IN ATTACKS ON HUMAN DIGNITY AND HONOR THROUGH RIDICULE AND PUBLIC DEFAMATION, AS THIS WOULD CONTRAVENE ARTICLE 22 OF THE CONSTITUTION, WHICH EXPRESSLY PROHIBITS INFAMY** [More Information...](#)

The First Circuit Administrative Court of the Fourth Circuit ("1st CAC") resolved appeals 339/2023 and 376/2023, by which of means it was determined that the freedom of speech protected by Articles 6 and 7 of the Federal Constitution and Article 19 of the Universal Declaration of Human Rights does not permit authorities to launch attacks on human dignity and honor through ridicule and public defamation. Such acts constitute the definition of infamy prohibited by Article 22 of the Constitution.

In this regard, these cases derived from an amparo claim filed against the governor of Nuevo León and other authorities, regarding various attacks on their human dignity and honor through ridicule and public defamation carried out by these authorities on social media. In this amparo claim, the suspension of the challenged acts was requested, but denied on the grounds that the acts did not fall within the definition of infamy, nor were they covered by the provisions of the Amparo Law. Furthermore, the social media posts did not refer to any imposed sanctions that was intended to deteriorate the dignity or honor, nor did they involve a person deprived of his freedom.

As justification, the 1st CC pointed out that, in terms of Articles 6 and 7 of the Constitution and Article 19 of the Universal Declaration of Human Rights, citizens and even authorities have the right to express and disseminate their opinions and ideas. However, the exercise of freedom of expression does not extend to the point where individuals are authorized to publicly express words that violate human dignity. While they can assert any fact or express any thought in the exercise of this freedom, it does not have the scope to intrude into the private lives of individuals or engage in expressions that tend to reveal personal defects or unlawful acts.

**DIFFUSE CONSTITUTIONAL CONTROL IN AMPARO CLAIM. THE CIRCUIT COURT RULED THAT IN THE EXERCISE OF DIFFUSE CONSTITUTIONAL CONTROL IN AMPARO CLAIM, THE PLAINTIFF IS NOT OBLIGATED TO IDENTIFY AS RESPONSIBLE AUTHORITIES THOSE WHO PARTICIPATED IN THE LEGISLATIVE PROCESS OF CREATING THE ALLEGEDLY UNCONSTITUTIONAL LAW, AND FURTHERMORE, THE TACIT CONSENT TO LAWS BY NOT CHALLENGING THEM IN THE INITIAL APPLICATION DOES NOT CONSTITUTE A TECHNICAL IMPEDIMENT TO SUBSEQUENTLY CHALLENGE THEM** [More Information...](#)

The Second Circuit Court ("2nd CCC") resolved the constitutional appeal 204/2022 stating that in the exercise of diffuse constitutional control in the constitutional appeal the plaintiff is not required to identify as responsible authorities those who participated in the legislative process of creating the allegedly unconstitutional law applied in the challenged act. This is because the legislative process is not the act under dispute nor the subject matter of the claim. Then, the only thing that needs to be demonstrated is that the law was applied in the challenged act.

Especially, if the Court determines that the law is unconstitutional, it will only lead to an indirect unconstitutionality of the challenged act, and thus, this decision will only result in its inapplicability, and therefore, there is no need to summon the issuing authorities of the law alleged to be unconstitutional because there will be no declaration of unconstitutionality of the law itself, only its inapplicability with regard to the specific contested act.

In this regard, it also determined that the tacit consent to general laws, by not challenging them in the first act of the application through concentrated control, does not prevent the exercise of diffuse constitutional control over these laws when they are applied in subsequent acts, therefore, since it is not the act under dispute or the subject matter of the claim, the same restriction that applies in concentrated constitutional control, where the opportunity to challenge laws is limited to the first act of application, does not apply.

**CONSTITUTIONAL / JUSTIFIED PREVENTIVE DETENTION. CIRCUIT COURT ESTABLISHED THE CONDITIONS THAT MUST BE MET FOR THE IMPOSITION OF JUSTIFIED PREVENTIVE DETENTION** [More Information...](#)

The First Circuit Court ("1st CC") resolved in the constitutional appeal 551/2021, that the scope of evidentiary sufficiency related to the prediction hypothesis regarding the flight risk of the defendant consists of satisfying three conditions, specifically that: (i) the respective facts indicating this procedural risk are sufficiently proven, as they will serve as the basis to predict that the defendant will not appear in the procedure; (ii) that hypothesis is formed from the rules of sound criticism to reveal that the intended scenario which is intended to draw is not materially impossible or subject to multiple contingent factors; and (iii) that inference overcomes a process of confrontation or debugging.

In this regard, this matter derived from an amparo claim filed against the imposition of "justified preventive detention" where the District Court denied constitutional protection to the plaintiff, considering that the imposition of the preventive detention was correct, as there was an eminent risk that the defendant might escape, based on information broadcast by the media, which is consider as a notorious fact, along with the fact that there was no restrain measure and that the defendant had no ties to the location of the claim, as well as that the defendant had means to leave or hide.

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