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CIVIL. A CIRCUIT COURT (“CC”) RULED THAT THE JUDICIAL PROCEDURE REGARDING THE RIGHT OF REPLY HAS TWO DISTINCT AND SUCCESSIVE STAGES. LIKewise, THE APPLICANT FOR THE REPLY DISPLAYS HAS THE OBLIGATION TO PROVE THE FALSITY OR INACCURACY OF THE PUBLISHED INFORMATION [More Information...](#)

The Tenth Circuit Court of Civil Matters in Mexico City (“10 CC”), resolved in the amparo claim number 350/2022 and determined that the right of reply *-with a self-compositive procedural nature-* consists of two successive stages: **(i)** an extrajudicial *-before the obligated party-* and **(ii)** a judicial one *-before the Federal Courts-*. In the first stage, the applicant must prove the falsity or inaccuracy of the information to the obligated party, that is to say, in this stage the *litis* is determined. In the second stage, the legality of the process of replying to the obligated party is reviewed in Court.

In that sense, it involves differentiated and successive stages, so if the request for a reply is not processed before the obligated party, it is legally impossible for the judicial stage to exist, since the Court lacks factual or legal grounds to issue a ruling. Moreover, if derived from the extrajudicial stage, the obligated party chose to publish a reply considering it appropriate, the conflict ends, so there is no possibility to initiate the judicial stage.

Additionally, the 10 CC determined that the judicial procedure is a closed *litis*, so the Court cannot consider issues other than those included in the case during the initial stage before the obligated party, nor can they introduce different issues other than those raised. This prevents the Court from modifying the request or the reasons for the obligated party’s denial during the extrajudicial phase.

Likewise, the CC pointed out that in the judicial stage regarding the right to reply, the obligation to prove the falsity or inaccuracy of the information corresponds to the applicant of the reply. Also, the petitioner must assume a minimum standard of proof that sufficiently reveals the need for a reply. If not proven, even indicatively, there would be no basis for the right of reply, since the opportunity to clarify information whose probity and validity was not refuted could not be granted, while admitting it would be a direct violation of freedom of expression.

In this regard, this amparo claim derived from a decision of the Court of Appeals related to a reply procedure filed by a person – *who was running for federal deputy-* against a newspaper publication in which was stated that he had been arrested in the year 2016.

For more information:

<https://sjf2.scjn.gob.mx/detalle/tesis/2027727>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027747>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027749>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027748>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027750>

CONSTITUTIONAL. THE SECOND CHAMBER OF THE MEXICAN SUPREME COURT OF JUSTICE DETERMINED THAT IT IS THE OBLIGATION OF AUTHORITIES TO REMOVE OBSTACLES AND BARRIERS TO ENSURE ACCESS TO MOBILITY SYSTEMS FOR PEOPLE WITH DISABILITIES IN EQUAL CONDITIONS [More Information...](#)

The Second Chamber of the SCJN, resolved the constitutional appeal 439/2023, and determined that the lack of accessibility in mobility systems *-especially concerning people with disabilities-* does not only violates the rights to accessibility and mobility but also constitutes discrimination. Thus, this obliges competent authorities to adopt measures aimed at ensuring that people with disabilities can use the mobility system with the greatest independence possible, it also emphasized that accessibility involves **(i)** removing obstacles to guarantee access under equal conditions, **(ii)** proposing specific actions such as identification of barriers, **(iii)** adapting accessible environments, **(iv)** raising awareness and sensitizing all individuals involved in accessibility issues, and **(v)** developing and issuing accessibility standards. Additionally, it emphasizes that accessibility is essential for people with disabilities to live independently and participate in all aspects of life on an equal basis, considering the denial of access as discriminatory treatment.

The SCJN based its decision in terms of Article 2 of the Convention on the Rights of Persons with Disabilities, which states that people with disabilities and other users must have the possibility of moving without barriers, have access to accessible vehicles, information, communication, and universally designed buildings. Thus, the lack of accessibility in mobility systems prevents them from using these systems on equal terms, constituting a violation of both accessibility and mobility rights, as well as discrimination on the grounds of disability.

Likewise, it emphasizes the authorities obligation to adopt measures for people with disabilities can use the mobility system independently, recognizing that it is not sufficient to treat people with disabilities equally; but that it is necessary to acknowledge and address the barriers and difficulties they face by adapting public policies to their needs.

For more information:

<https://sjf2.scjn.gob.mx/detalle/tesis/2027601>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027602>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027626>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027627>
<https://sjf2.scjn.gob.mx/detalle/tesis/2027655>

CONSTITUTIONAL. THE FIRST CHAMBER OF THE MEXICAN SUPREME COURT OF JUSTICE DETERMINED THAT THE LEGISLATIVE OMISSION TO COMPLY WITH OBLIGATIONS ESTABLISHED IN AN INTERNATIONAL PROVISION ARISING FROM MEXICO’S INTERNATIONAL COMMITMENTS IS CLAIMABLE THROUGH AMPARO CLAIM [More Information...](#)

The First Chamber of the Mexican Supreme Court of Justice (“SCJN”) resolved the amparo claim number 439/2023 and determined that a legislative omission to fulfill obligations established in an international or conventional provision occurs when there is a constitutional mandate *-derived from Mexico’s international commitments by signing international treaties on human rights-* that obliges the State Powers to adjust their normative regime in accordance with these international standards, and in case of non-compliance, it is claimable through amparo claim. Also, it must be read and interpreted harmoniously and from a correct understanding of the nature of general laws in our legal system, in order to deduce the existence of a precise and clear constitutional mandate so that the legislatures of the States issue and harmonize their legislation.

As justification, the SCJN pointed out that in terms of Article 1 of the Constitution and in accordance with the Inter-American Convention on Human Rights, Articles that provides that every Government action must be in line with the constitutionality block and, furthermore, focus on promoting, respecting, protecting, and guaranteeing human rights; therefore, the omission of a legislative authority to act in accordance with international standards in human rights also constitutes a violation of these rights and can be claimed through constitutional appeal, in accordance with the provisions of Article 103 of the Constitution and Article 1 of the Amparo Law.

For more information:

<https://sjf2.scjn.gob.mx/detalle/tesis/2027548>

CONSTITUTIONAL. A CC DETERMINED THAT THE AUTHORITY THAT ISSUES LEGISLATIVE MEASURE MUST CONDUCT THE PROPORTIONALITY TEST TO PROVE THAT IT IS NECESSARY AND THAT IT COMPLIES WITH A CONSTITUTIONALLY VALID PURPOSE [More Information...](#)

The Second Circuit Court of Administrative Matters in Mexico City (“2 CC”), determined in final ruling of constitutional appeal number 95/2023, that the obligation to prove that the legislative measure adopted is necessary to achieve the constitutionally valid purpose corresponds to the authority that issues the legislative measure. Additionally, the degree of necessity in the proportionality test of the adopted legislative measure involves an analysis of both procedural and substantive requirements, comprising two distinct moments of analysis.

In this regard, the aforementioned appeal derived from an amparo claim submitted against the Decree prohibiting the circulation and commercialization within the Republic of electronic nicotine administration systems and similar products, due to its first act of application, consisting of the seizure of this type of products by the Coordination of Health Regulation of the Health Institute of the State of Mexico.

This decision is based on the notion that, when assessing the necessity of a restrictive measure on fundamental rights, the Court should not assume the role of the responsible authority and seek alternatives itself. Therefore, the Judicial review focuses on **(i)** determining whether the authority issued the measure after duly considering other options and **(ii)** whether that legislative measure minimally impacts the fundamental right.

Thus, to support the constitutional regularity of the restrictive measure, it is mandatory for the authorities issuing the decision to have based it on a study of possible equally suitable alternatives to achieve the constitutionally valid purpose and to have evaluated and justified why these alternatives cannot be considered, as judicial review is not intended to replace the legislative or administrative structure with one created by the judiciary.

For more information

<https://sjf2.scjn.gob.mx/detalle/tesis/2027675>

CONTACT

esteban.gorches@mgps.com.mx

juan.blanco@mgps.com.mx

fernando.sanchez@mgps.com.mx

maria.castro@mgps.com.mx

+52 (55) 52 46 34 00

Info@mgps.com.mx

www.mgps.com.mx

Paseo de los Tamarindos 90 Torre I
 Piso 8, Bosques de las Lomas
 C.P. 05120
 Ciudad de México, México