

CLIENT UPDATE

## TWO FEDERAL JUDGES ORDER STAY OF PROCEEDINGS TO VOTE JUDICIAL REFORM IN CONGRESS

### Background

In response to the Mexican president introduction on February 5 of a bill proposing amendments to the Constitution, with a purpose to undo the balance of powers among branches of government and expand the role of the Executive to the detriment of the Judiciary (the “Bill”), two groups of federal judges filed *amparo*\* petitions against proceedings to vote the Bill in Congress until violations to the Constitution are redressed in the same.

Below is an overview of the orders of stay barring the continuation of the proceedings in Congress and state legislatures, issued by two federal judges and made known to the public by the relevant courts as of 11:00 a.m. EDT September 9, 2024.

As mentioned in our previous Client Update [here](#) an amendment to the Constitution, requires the favorable vote of 2/3 of deputies in the Chamber of Deputies, 2/3 of senators in the Senate and no less than half plus one of the state legislatures.

Fifth District Judge Martha Eugenia Magaña Lopez, based in Morelos, issued a definitive order in the *amparo* suit 1251/2024 on September 4, ordering the stay of the proceedings to discuss and vote the Bill in the Chamber of Deputies. Judge Magaña Lopez based the order in two related fundamental reasons. First, judicial independence and a system for free and unimpeded administration of justice are basic human rights of the Mexican people. Second, the power to amend the Constitution cannot destroy the same.

Notwithstanding the issuance of such order and the giving of timely notice of the same to the Chamber of Deputies, Morena and satellite parties after a perfunctory discussion, voted to approve the Bill on September 4 and sent the same to the Senate.

Not since Victoriano Huerta interim president of Mexico between February 19, 1913 and July 15, 1914, had there been such a blatant disregard by a power of the Mexican federation towards an order issued by another power in accordance with the Constitution.

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\* Mexican federal courts may exercise a constitutionality review power through the suit of *amparo*, which consists of a power to deny, on a case-by-case basis, the enforcement of actions taken by the legislative or the executive branch in violation of the Federal Constitution.

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The resolution so adopted by the Chamber of Deputies lacks an essential element of validity arising from the breach of the above-mentioned order and can be contested.

Third District Judge Felipe V. Consuelo Soto, based in Chiapas, issued a temporary order in the *amparo* suit 1190/2024 on August 30, ordering both the Chamber of Deputies and the Senate to refrain from sending the Bill for approval by the state legislatures and legislature of Mexico City. Judge Consuelo Soto sided amply with the petitioners and based the order in the following reasons. Judicial independence and separation of powers are essential elements of the Constitution. A system of judicial competence is proposed to be replaced by a popular vote, without any requirement to qualify as a candidate for judicial positions. Should the proposed vote of the state legislatures proceed, it might become unfeasible to undo the damage done to the petitioners. Finally, there is ample time to correct the Bill and ensure its conformity with the Constitution, before the date in 2025 in which the proposed reform would start being implemented.

The judge acknowledged in his order, a possible violation by the Bill of international treaties to which Mexico is a party and of the United Nations Basic Principles on the Independence of the Judiciary, as raised by the petitioners.

Judge Consuelo Soto issued a definitive order on September 6, granting a stay of the proceedings as described above, with respect to Mexico City and 18 state legislatures. He indicated that the effects of his initial temporary order are yet to be reviewed in respect to 13 other state legislatures.

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We are closely monitoring developments related to the Bill. Please do not hesitate to reach out to our firm with any questions.

Berdeja Abogados, S.C.

September 10, 2024