

CLIENT UPDATE

## MAJORITY IN CHAMBER OF DEPUTIES AWARDED IN BREACH OF ELECTORAL RESULTS

### Background

As mentioned in our previous Client Update [here](#) the Mexican president, Andrés Manuel López Obrador (“Amló”), introduced on February 5 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”).

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.

Mexico held elections for president and for a renewal of Congress on June 2. Claudia Sheinbaum was the winning candidate. Amló’s party increased its number of seats in both the Chamber of Deputies and the Senate but fell short of winning an absolute 2/3 majority in both chambers.

Notwithstanding that, Amló and his ruling party Morena, have maneuvered to disregard electoral results and obtain an illegal 2/3 majority in the Chamber of Deputies, that will entitle to approve constitutional amendments, while seeking to persuade two senators to flip their votes and help Morena and satellite parties attain a 2/3 majority in the Senate for such purpose.

The maneuver sought by Amló and Morena was orchestrated in two stages. First, Morena senators in the Senate refused to cast a vote appointing two magistrates required to form the necessary quorum in the Electoral Tribunal of the Federal Judiciary Power (“Electoral Tribunal”), paving the way to pass a resolution by the vote of a majority of magistrates favorable to Morena. Morena feared that candidates for magistrates proposed by the Supreme Court in accordance with the Constitution, if appointed, might vote independently and alter the fictitious majority held by Morena.

Second, Amló and Morena instructed the National Electoral Institute (“INE”) to interpret the Constitution in absolute breach of the same and disregard of votes cast in the election and award a number of seats arising from the so-called proportional representation to Morena and satellites, so as to illegally award them a 2/3 majority in the Chamber of Deputies.

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Four commissioners of INE voted against such illegal award of sits: Claudia Zavala, Dania Ravel, Jaime Rivera and Martín Faz. One magistrate of the Electoral Tribunal, Janine Otálora voted against the same. Such persons deserve recognition and gratitude for voting in accordance with the Constitution and trying to save Mexico's young democracy.

The disparity between electoral results and the award of sits granted by INE, illustrate the bright shining lie of INE when awarding proportional representation sits in the Chamber of Deputies: Morena and satellites obtained 54% of the votes in the June 2 election, but were awarded 73% of such sits; the block of opposition parties obtained 45% of the votes, but were awarded 24% of such sits.

With the 2/3 artificial majority thus attained, Morena and satellites are positioned to approve the Bill in the Chamber of Deputies and initiate the process to decapitate the Mexican Supreme Court and federal courts upon the new Chamber being sworn in after September 1<sup>st</sup>.

It appears that Amlo and Morena have succeeded in coopting the vote of senators from opposition parties necessary to attain 2/3 of votes to approve the Bill in the Senate. If so, the Bill is likely to be approved by the Senate after a perfunctory discussion of the same.

The only possible deterrent, would be a decision by federal courts ordering a stay of the vote of the Bill in Congress and of its subsequent referral to the state legislatures to complete the approval process, based upon the lack of quorum in the Electoral Tribunal and the illegal awarding of a 2/3 majority in the Chamber of Deputies discussed above.

As mentioned in our previous Client Update, Congress should carefully consider when voting on the Bill, that its approval would contradict the Mexican Constitution, the General Agreement on Trade in Services (GATS), and would run against the stated principles of the United States-Mexico-Canada Agreement (USMCA). Federal courts labor organizations, NGO's, State legislatures and other related institutions, should consider preparation for action before the Supreme Court based upon violations of the Constitution, as well as notification to international bodies based upon breaches of GATS and the USMCA, should the Bill be passed.

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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.

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