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Mexico Amends Amparo Law regarding Suspensions of Legal Acts

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On June 14th, 2024, a decree was published in the Official Journal of the Federation amending articles 129 and 148 of the Amparo Law regarding suspensions of official legal acts in amparo lawsuits where the unconstitutionality of general laws (e.g., federal and state laws, regulations, decrees, agreements and all types of resolutions of general observance) is challenged. Through this amendment, federal judges are expressly prohibited from issuing suspensions with general effects in amparo proceedings that rule on the unconstitutionality of general laws.

This amendment means that suspensions issued by federal judges in connection with the processing of an amparo lawsuit may benefit only the plaintiff who filed such amparo lawsuit. Therefore, the suspensory measure may not detain or paralyze the application of the challenged law as to the rest of the population until the merits of the proceeding have been resolved regarding whether or not the challenged law is unconstitutional.

The suspension in amparo proceedings is a precautionary measure issued by a federal judge, usually when an amparo lawsuit is filed for processing, which seeks to preserve the subject matter of the amparo lawsuit avoiding irreparable damages caused by the application of the act or general law claimed during the entire time the amparo proceeding is being processed. Thus, the suspension is a fundamental measure in amparo proceedings since it guarantees that the challenged act will cease to generate adverse and irreparable effects while the merits of the amparo proceeding are being resolved, and it also guarantees the eventual effectiveness of the judgment that may be issued in the merits of the proceeding.

This amendment represents a serious setback in Mexico in terms of human rights, such as the right to equality before the law and effective access to justice, since it prevents federal judges from issuing this fundamental measure to prevent unconstitutional general laws from causing irreparable damages to the entire population. The new ruling limits the effects of the suspension solely in favor of the plaintiff who filed the amparo lawsuit, creating a type of selective justice (by allowing the suspension only in favor of the party who filed the amparo lawsuit against the general law challenged of being unconstitutional). On the other hand, allowing a general law to continue to be effective will affect the rest of the population that could not, or did not, file an amparo lawsuit.