

THE JUDICIAL REFORM: AN OVERVIEW OF ITS CONTENT AND SCOPE

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Executive Summary:

- The Initiative that amends, supplements, and repeals various provisions of the Political Constitution of the United Mexican States to bring about significant changes in the organization and functioning of the Federal Judiciary has been approved by both Houses of the Legislative Power and is currently under discussion by state legislatures.
- We consider that the potential political-judicial transition foreseen by said reform, scheduled for September 2025, poses a challenge for proceedings initiated prior to the entry into force of the reform.

In this regard, the reform proposed by the Federal Executive, which has been approved by both Chambers of the Legislature and is currently being discussed by the state legislatures, modifies various provisions established in the Political Constitution of the United Mexican States, including but not limited to Articles 17, 20, Section B, 94, 95, 96, 97, 98, 99, 100, 101, 107, 110, 111, 116, and 122.

That is, while the cornerstone of the judicial reform is the popular election of judges and justices at all levels; the reform also introduces points such as (i) the redesign of the Supreme Court ("SCJN" for its acronym in Spanish), (ii) the replacement of the Federal Judicial Council with the Judicial Discipline Tribunal and the Judicial Administration Body, (iii) various budgetary measures, such as the elimination of retirement benefits for justices, (iv) the establishment of maximum deadlines for issuing judgments, and (v) prohibiting general effects in the suspension and merits of amparo trials, actions of unconstitutionality, and constitutional controversies. Below, a summary of their scope and content:

1. NEW COMPOSITION OF THE SUPREME COURT

Regarding the SCJN, the reform provides for substantial changes to its composition, structure, and operation. Among the changes is the reduction of the Court's members from 11 to 9 justices, which results in a decrease in the number of votes required to form binding precedents to 6 votes. Additionally, it is provided that the justices of the SCJN will serve for a term of 11 years, with no possibility of re-election.

Furthermore, the reform abolishes the Chambers of the Supreme Court, which currently handle matters not reserved for resolution by the Plenary under the second point of the General Agreement 1/2023. This results in a reduction of the workload, allowing the Plenary to focus on the discussion and resolution of issues of greater constitutional relevance. Therefore, with the elimination of the Chambers, the Plenary will be responsible for all matters admitted and processed by our High Court.



2. MODIFICATION TO THE PROCEDURE FOR ELECTING PUBLIC OFFICIALS

According to the reform, justices of the SCJN, the justices of the Superior Chamber and Regional Chambers of the Federal Electoral Tribunal, the justices of the Judicial Discipline Tribunal, the circuit magistrates, and district judges will be elected through a free, direct, and secret popular vote.

For this purpose, the Senate of the Republic will be responsible for organizing and publishing the call for candidacies within 30 calendar days following the start of the first ordinary session period of the year preceding the election. For these purposes, the Senate will receive the nominations and forward them to the National Electoral Institute no later than February 12 each year. These nominations will be in accordance with the following:

(I) Justices of the SCJN, the justices of the Superior Chamber of the Federal Electoral Tribunal: The Executive Branch will propose up to 3 candidates; the Legislative Branch will nominate up to 3 candidates (1 from the Chamber of Deputies and 2 from the Senate, through a qualified vote of 2/3 of its members), and the Federal Judiciary, through the SCJN Plenary, will nominate up to 3 persons by a majority of 6 votes.

(II) Circuit magistrates and district judges: The election will be conducted by judicial circuit, granting each of the branches of government the opportunity to nominate up to 2 candidates for each position.

It is provided that candidates will have the right to access radio and television equally, according to the distribution of time determined by the National Electoral Institute, with public or private funding of campaigns explicitly prohibited, as well as the purchase of media space for the promotion of candidates. Additionally, political parties are expressly prohibited from supporting or opposing any candidate.

Candidates for popular election must: (i) be a Mexican citizen by birth and in full exercise of civil and political rights; (ii) hold a professional law degree with an overall average of at least 8 points or its equivalent and 9 points or its equivalent in subjects related to the position they are applying for; (iii) have a good reputation and not have been convicted of a serious crime punishable by imprisonment; (iv) have at least 5 years of legal practice at the time of nomination; (v) have resided in the country for the two years prior to the publication of the call; (vi) not have served as Secretary of State, Attorney General of the Republic, Senator, Federal Deputy, or head of the executive branch of a state in the year preceding the call.

In this context, if the Decree is approved and published in the Official Federal Gazette following the legislative procedure, the implementation of the judicial reform will need to comply with the transitional provisions set forth in the Opinion issued by the Constitutional Points Commission of the Chamber of Deputies, which provides, among other things, that with the entry into force of the reform, an extraordinary electoral process for 2024-2025 will commence for the election of all justices of the Supreme Court of Justice of the Nation, as well as half of the circuit magistrates and district judges; while the remaining half will be elected through the ordinary election of 2027.

In this regard, the Senate will have a 30-day period from the entry into force of the reform to prepare the call for participation in the election, and due to the absence of secondary and regulatory provisions, the Decree authorizes the General Council of the National Electoral Institute to issue necessary agreements for organizing these elections. Those currently in office may participate in the extraordinary election scheduled for the first Sunday in June 2025; however, if not elected, they must conclude their term on the date when the elected officials take office.

3 .REPLACEMENT OF THE FEDERAL JUDICIAL COUNCIL WITH THE JUDICIAL DISCIPLINE TRIBUNAL AND THE JUDICIAL ADMINISTRATION BODY

The reform provides for the dissolution of the Federal Judicial Council, replacing it with the Judicial Discipline Tribunal, before which any person or

authority may report any Federal Judiciary public official for investigation into acts or omissions contrary to the law, public interest, or proper administration of justice, including those related to corruption, influence peddling, nepotism, complicity, or covering up alleged criminals, or when their decisions do not align with principles of objectivity, impartiality, independence, professionalism, or excellence.

The Judicial Discipline Tribunal is expected to operate in Plenary and in Commissions: the Plenary will be responsible for handling and resolving cases in second instance, either *ex officio* or upon report, initiating investigations, attracting cases related to serious infractions or acts deemed criminal by law, ordering precautionary measures and sanctioning public officials who commit acts or omissions contrary to the law.

The Tribunal will conduct administrative responsibility proceedings in first instance through its Commissions, composed of 3 members who will act as the authority for handling and resolving cases within their jurisdiction. Decisions of the Commissions may be appealed to the Plenary (which will decide by a majority of 4 votes), with the understanding that the Plenary, as a second instance body, will render definitive and unappealable resolutions.

Furthermore, the Judicial Discipline Tribunal will evaluate the performance of circuit magistrates and district judges who are elected.

The Judicial Administration Body is envisioned as the entity responsible for the administration, budget, evaluation, and internal control of the Federal Judiciary, as well as determining the number of circuits, territorial jurisdiction, and specialization of the Courts. Its Plenary will consist of 5 public officials with a non-renewable 6-year term.

This Judicial Administration Body will be responsible for preparing the Federal Judiciary Budget, which will be included in the Federal Expenditure Budget Project.

In this context, it is expected that the Judicial Discipline Tribunal will work together with the Judicial Administration Body, ensuring that the former can request the latter to issue agreements or execute resolutions to ensure proper federal jurisdictional functions.

4. BUDGETARY MEASURES

The reform stipulates that the remuneration received by the justices of the SCJN, circuit judges, district judges, members of the Judicial Discipline Tribunal, Electoral Magistrates, and other members of the Federal Judiciary may not exceed the amount established for the President of the Republic in the corresponding budget.

Additionally, although Transitory Article Tenth of the reform states that the labor rights of Federal Judiciary employees and those of federal entities will be respected, Transitory Article Seventh provides that justices of the Supreme Court who end their term due to not running or not being elected in the 2025 extraordinary election will not be entitled to retirement benefits, unless they resign before the call's closure date.

The reform also prohibits the creation or maintenance of funds, trusts, mandates, or similar contracts not provided for by law, thus constitutionally enshrining the elimination of trusts carried out on October 27, 2023.

5. NEW PROCEDURAL RULES

Finally, it is important to note that the reform introduces two significant modifications to the means of control recognized in our legal system: first, the establishment of a maximum deadline for issuing resolutions once a dispute is brought before the body; and second, the express constitutional prohibition on granting general effects to judgments issued through constitutional controversies, actions of unconstitutionality, or amparo trials.

In this regard, the Decree elevates to a constitutional level the prohibition not only of general effects in suspensions granted in amparo proceedings against regulations (which was already included in the Amparo Law with the reform published on June 14), but also in substantive rulings. In this line, the Decree prohibits the suspension of regulations in constitutional controversies and actions of unconstitutionality. Although the Regulatory Law of Article 105 of the Constitution, as well as the Amparo Law, contemplates this limitation, the SCJN (Supreme

Court of Justice of the Nation) has interpreted the law to, in some cases, grant suspension based on a pro persona interpretation and the rights at stake.

Additionally, for matters initiated prior to the entry into force of the reform, if such proceedings have not been concluded before the assumption of office, the six-month period provided for by the Decree amending Article 17 of the Constitution will start anew. If the resolution is not issued within this period, the public official in charge of the matter must notify the Judicial Disciplinary Court to justify the delay.

Therefore, we recommend taking all necessary actions in ongoing trials and litigations as soon as possible to expedite the resolution before the political-judicial transition scheduled for September 2025. Failure to do so may result in procedural deadlines extending beyond the initial expectations due to changes stemming from the ongoing reform. Thus, it is crucial to act diligently to avoid potential additional delays.

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