

Mexico City, June 17, 2024

Amendment to the Amparo Law in Matters of Suspension of the Challenged Act and Unconstitutionality of Norms

What is the amendment about?

When a person resorts to amparo, it is because they consider that the acts of an authority violate their human rights.

The amparo provides for the granting of the suspension, which is a measure granted by the judges basically to keep things in the state in which they are and not to continue the execution of the act that affects the petitioner of the right to do so.

As a general rule, both suspensions and judgments in which amparo is granted only benefit the person who filed it (complainant), since it is a procedure that protects fundamental rights, these by their nature are very personal and the analysis carried out by the judges should be made on the specific cases that are brought before them. (Principle of relativity).

However, since the 2011 amendment on human rights and the criteria that have derived from the application of international treaties in this area, amparo judges made an interpretation of Article 148 that regulates suspensions when a person resorts to amparo against a general rule.

The argument for granting these suspensions with general effect was that, if different treatment is allowed for one and the other, greater damage could be caused to society.

Therefore, in the amendment that has just been published, the last paragraph of Article 129 is repealed and in accordance with it, a paragraph was added to Article 148, both of the Amparo Law, to prohibit judges from granting suspensions against laws of general application (until the modified norm is declared unconstitutional), so that they can only grant them to those who request amparo, an effect that does not have the due significance.

Surely this amendment will reach the Supreme Court of Justice of the Nation, which will finally have the last word regarding its legality.

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