

## Legal memo

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Mexico City, June 9, 2023

# The National Code of Civil and Family Procedures: A legislative reform that transforms justice in Mexico.

**With over a thousand articles, the Code seeks to establish a coherent justice system based on human rights and international treaties. However, questions arise regarding its applicability in local contexts and the potential for future adaptations.**

## 1. Background

Federalism is a model of governance characterized by two levels of government. At the state level, there is a general competence to regulate and address the everyday needs of the population, particularly in civil and family matters. On the other hand, the federal level has limited and exceptional jurisdiction, as stated in Article 124 of the Constitution. According to this article, powers not explicitly granted to federal officials are considered reserved for the States or Mexico City within their respective areas of competence.

Traditionally, civil and family matters have fallen under the jurisdiction of the states, aligning with the principles of federalism enshrined in the current 1917 Constitution. However, in practice, there has been an excessive expansion of powers granted to the federal government, resulting in a growing trend of centralized governance that undermines the autonomy of the states and the essence of federalism.

On September 15, 2017, a constitutional reform was published in the Official Gazette of the Federation (DOF), including Article 73, section XXX. This article grants Congress the authority to enact a unified legislation on civil and family procedural matters. Building upon this constitutional provision, on June 7, 2023, Congress approved the enactment of such legislation, leading to the publication of the National Code of Civil and Family Procedures in the DOF, as mentioned earlier.

## 2. Object of the Code and Essential Content

Article 1 of the Code establishes: *"The provisions of this National Code are of public order, social interest, and general observance throughout the national territory. They aim to establish the regulation of civil and family procedures based on the human rights provided in the Political Constitution of the United Mexican States and in the International Treaties to which the Mexican State is a party."*



Book One of the Code deals with the system for the administration of justice in these matters and includes general provisions. Article 7 of the Code establishes the guiding principles of the system of administration of justice in civil and family matters. Section Two of Title One of Book One of the Code addresses actions, while Section Three deals with exceptions. Title Two of Book One of the Code focuses on jurisdiction.

Book Two covers civil and family oral proceedings.

Book Three covers civil justice.

Book Four covers family justice.

Book Five covers universal judgments.

Book Six addresses class actions.

Book Seven covers appeals.

Book Eight focuses on digital justice.

Book Nine addresses judgment, enforcement, and execution.

Book Ten deals with international proceedings.

The Code consists of 1191 articles and includes 20 transitional articles.

### 3. Entry into force

Transitory Article One: *"This Decree shall enter into force on the day following its publication in the Official Gazette of the Federation."*

Second Transitory Article: *"The application of the provisions of the National Code of Civil and Family Procedures provided for in this Decree shall enter into force gradually as follows: at the federal level, in accordance with the Declaration issued successively by the Chambers of Deputies and Senators that make up the Congress of the Union, upon request by the Judiciary of the Federation, without exceeding April 1, 2027."*

*"In the case of the Federal Entities, this National Code shall enter into force in each of them in accordance with the Declaration issued by the Local Congress upon request by the Judiciary of the respective State, which may not exceed April 1, 2027..."*

### 4. Conclusion

The National Code of Civil and Family Procedures holds great importance and is widely regarded as one of the most significant federal legislations, second only to the Federal Constitution of the Republic and the Amparo Law.

The matters addressed by the Code have a profound impact on the lives of millions of people across the country. It is important to note that civil and family lawsuits constitute the highest number of litigation cases handled annually in Mexico.

However, the enactment of this Code raises concerns about its alignment with the principles of federalism that underpinned the 1917 Constitution, which is still theoretically in force. Over the years, the federal government has gradually assumed more powers, encroaching upon the constitutional autonomy of the states. Civil and family matters are intricately tied to the unique



characteristics of each state in the Republic. Thus, standardizing these matters may present significant challenges for their effective implementation at the local level. On the other hand, attempting to align each federative entity with the current legal framework and the guiding principles of the Code by modifying their legislation in these areas might impede the reform process.

In terms of the implementation of the new Code, it is noteworthy that there was limited national-level debate concerning this substantial shift in federalism. To ensure the harmonization of regulations without undermining the autonomy of the states, the adoption of model laws and codes, as practiced in other federalist countries, could have been considered. This approach would have allowed each state to adapt the legislation according to its specificities and individual needs.

Furthermore, challenges are likely to emerge in carrying out the necessary reforms as circumstances evolve over time. Although the states are obliged to work towards implementing the Code by 2027, it is hoped that this process will be completed before the deadline.

Ultimately, our hope is that this new Code will serve as a crucial piece of legislation that contributes to the efficient administration of justice, addressing the current societal challenges effectively.

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