

COELUM

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Comments on the new *Amparo Law*.
Juan Antonio Tiscareño P. 01-02

APRIL NEWS on
Mexican Aviation P. 03-04

COELUM Pronunciation: 'che-l&m, is Latin for airspace or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.

Contributors P. 05

Comments on the new *Amparo Law*.

by *Juan Antonio Tiscareño*.

The publication of the new *Amparo Law*, in the Federal Official Gazette of Mexico on April 2nd, 2013, will bring significant changes to the Mexican legal system. The issuance of this law was derived from the amendment to the Mexican constitution of June 6th, 2011, which entered into effect on April 3rd, 2013.¹

Taking into consideration the number of relevant issues addressed in the new law, and the importance of every one of them, in this article I will describe only four aspects:

- Scope of application
- Legitimate interest
- General ruling of unconstitutionality
- Creation of “Plenary Circuit Courts”

We will analyze these aspects in comparison with the treatment that was prescribed in the previous *Amparo Law*. In a the next article, we will analyze other relevant aspects, e. g., the introduction of the adherent *amparo* and adherent remedies, or the elimination of rulings of dismissal of the proceeding without deciding on the merits of the case due to inactivity, among others.

This law will have an impact on all areas of the Mexican legal system. In Mexico, a series of procedural institutions, which in other countries are handled separately, are under the protection of the *Amparo Law*, which is protection against rulings of courts containing an incorrect interpretation of law, the protection against acts of public administration, the protection against unconstitutional laws, habeas corpus, etc. We can clearly see with the enunciation of these examples that the *Amparo Law* is essential to our legal system.

“This law will have an impact on all areas of the Mexican legal system.”

The previous *Amparo Law* was published in 1936, therefore it is obvious that a lot of concepts and figures shaped at that time were not updated, and therefore were ineffective to challenge recent situations and authority acts that did not existed when the previous law was created. The spirit of the Law is to modernize the *amparo* process, in order to allow more timely and faster proceedings, and to extend its scope of protection.

Moreover, the *amparo* legal process is crucial, because it can be used at any stage of a judicial process, depending of the circumstances of the case, and is applicable to all legal areas: commercial law, administrative law, labor law, and etcetera.

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1.- There were also changes to five secondary laws, which together enable the implementation of the new *Amparo Law*. Such laws are: (i) Organic Law of the Federal Court System; (ii) Regulatory Law of sections I and II of article 105 of the Mexican Political Constitution; (iii) Organic Law of the Federal Public Administration; (iv) Organic Law of the Mexican Congress; (v) Organic Law of the Office of the Attorney General.

Scope of application

The scope of protection provided by the new *amparo* process is substantially extended, because the federal courts will resolve any controversy arising from general laws, acts or omissions by an authority that violated human rights, as recognized in the Mexican constitution, and in the international treaties which are part of the Mexican legal system.

In the previous law, the *amparo* did not protect human rights, but only individual rights granted, but not recognized by the constitution. The concept of individual rights (“*garantías individuales*” in Spanish), developed during the early 20th century, is now long overdue, and made reference to a much more narrow concept of the fundamental rights of the individuals, since the modern concept of human rights was developed significantly after World War II.

Legitimate Interest

Previously, to ask for an *amparo*, it was necessary to have a legal interest. That is, to have the legal title of the affected right, because otherwise the *amparo* was inadmissible and federal courts could not protect the plaintiff. With the new law, the type of interest changes, and now it is only necessary to have a legitimate interest, that is, to suffer an adverse impact in the sphere of rights, but it is no longer necessary to be the direct titleholder of that right. This change will facilitate the access to a favorable *amparo* ruling, because now the individual may challenge the act or omission of an authority that generates a negative impact, without the necessity of having a specific right recognized in law. The legitimate interest is important especially when dealing with rights not only belonging to a person, but to a collective, such as the right to an adequate environment, the right to public health, cultural and artistic heritage, and so on.

General ruling of unconstitutionality

Another essential change in the Law is the possibility for the Court to declare the unconstitutionality of any law, in benefit of all individuals. The previous *amparo* was designed in a way that only the plaintiff who initiated a formal process before a court, and was then able to obtain a favorable ruling, was benefited from an *amparo*, but now it is not necessary that every individual who initiates an action to take advantage of a ruling which declared the unconstitutionality of a law because when this happens, the ruling will have general effects in favor of the whole population.

Creation of “Plenary Circuit Courts”

Previously, when there was a contradictory criterion between Collegiate Circuit Courts, (courts responsible for solving, definitely, an *amparo*) the Supreme Court of Justice had to define which criteria prevailed, in order to have legal certainty of the proper interpretation. The creation of these courts will liberate the Supreme Court of this work, and will accelerate the definition of these criteria.

The Supreme Court will now have the task of defining what criterion prevails among contradictory rulings of Plenary Circuit Courts.

As we can see all these features greatly revolutionize the *amparo*, and thus all the Mexican legal system. As said, in the next article we will address other interesting points regarding this new law.

Slots Reorganization Required by the AICM.

The proposed reorganization of slots in the International Airport of Mexico City (AICM) will be ready soon because there is a common interest between the federal government and the AICM to encourage air connectivity the country. The airport terminal is very close to having a point of saturation. Unfortunately, the slots ventures with enterprises that have ceased operations, as Aviacsa, Mexicana Airlines and its subsidiaries or Aero California, have a legal issue which precludes commercial allocated as permanent. *Economista. 03/April/13.*

Aircraft “Supermarket” Opens in China.

In some agricultural land transformed into runways, where helicopters and small luxury planes parked worth millions of dollars, Beijing has installed its first “supermarket” for the new rich who want to fly. The facility, opened last Saturday and its managed by a flying club of Beijing, offering a wide range of aircraft to employers or members of Chinese socialite who dream of escaping jams in highways throughout the country. *Reforma. 04/April/13.*

Viable Regional Airport in Hidalgo: SCT.

The State of Hidalgo has an outstanding geographical position and offers potential for the development of modern connectivity projects with the center of the country, as well as proximity to the industrial area of Ecatepec and Tlalnepantla, which require a range of services to increase their competitiveness. In this sense, the possibility of an airport for civil aviation arises, that naturally meet the increasing demand for this area and the very north of the state, which will increase in the years to come. *Economista. 10/April/13.*

AICM is declared saturated.

The General Directorate of Civil Aviation (DGAC) determined that the International Airport of Mexico City (AICM) reached saturation levels for 8 hours a day, which could lead to a reallocation of slots. Greater involvement schedules are divided into two blocks of four hours each. The first begins at 6:00 and ends at 9:59, while the second extends from 16:00 to 19:59 hours. Alexandro Argudín, head of the DGAC, communicated the decision to the director of the AICM. The measure, which could be published Wednesday in the Official Journal of the Federation (DOF), takes effect the next day. *Reforma. 17/April/13.*

AICM Saturated, New Terminal and Slots Arrangement.

The saturation of the AICM definitely should be paired with the construction of a new terminal and the rearrangement of slots. It is a strategic necessity for the country to have an airport on condition that can serve more than 100 million passengers and promote feasibility of air cargo and passenger both internationally and domestically. *Crónica. 18/April/13.*

In this month extract was prepared by Jessi Saba, Raúl Barrios and Diego García.

Hearings Begin in the Aeromexico-ASSA Controversy.

Aeromexico presented a Collective Conflict of Economic Nature (CCNE) against the flight attendants Union (ASSA) on the Federal Board of Conciliation and Arbitration. Hearings will begin on April 22, 2013. According to Ricardo Del Valle, Secretary General of ASSA, this measure is pointless due to Aeromexico's fleet increase, as well as the raise on national and international fares. "We won't support this decision, which in fact is trying to end the collective contract that is now in place". *Economista. 22/April/13.*

Federal Board of Conciliation Admits Aeromexico's CNNE.

"As a result of the hearing, the Federal Board of Conciliation and Arbitration (JFCA for its name in Spanish) determined that the Collective Conflict of Economic Nature (CCNE) presented by Aeromexico and filed against flight attendants ASSA is admitted because it fulfils all the requirements established by law." stated the JFCA this Wednesday. This CCNE seeks to improve efficiency and reduce union's costs. Aeromexico stated that operational costs have increased because of the fuel price increase over the past five years, and the union's contract, which has increased costs over the years. *Reforma. 24/April/13.*

Boeing 787 Flies Without Incidents.

Ethiopian Airlines operated the first commercial flight of the Boeing 787 on April 27, and reported no incidents. This model had been given a no-fly order about three months ago due to problems on its lithium batteries. The FAA approved flights for this aircraft just the night before, after the batteries were replaced with a new system. All Nippon Airways and Japan Airlines, the companies with the most 787 have had test flights and have scheduled over 230 operations with the 787 for this year. *CNN Expansion. 29/April/13.*

Now is the Time for an Airports Chamber: GAP.

Fernando Del Bosque, director of the Pacific Airports Group (GAP) stated that there is a great opportunity of creating a national chamber that includes the main airport groups on 2013. "There have been modifications to different laws that affect the airports, and more are on the way. We want to have the possibility of speaking about these modifications, just like Canaero does. To do this on a more efficient way, we need to create a national chamber that includes the main airport groups and possibly ASA, which holds control of the airport in Toluca and Mexico City". *Economista. 29/April/13.*

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