

Mexican Supreme Court - Postponement of the rulings on the Amparo vs. amendments to the Power Industry Law

Mexico City, October 11, 2023

As per our September 12, 2023 update, the Second Chamber of the Mexican Supreme Court of Justice (“SCJN”) had set September 27, 2023 as the date to discuss the draft rulings of the appeals numbered 106/2023 and 164/2023, drafted by Justice Javier Laynez Potisek and Alberto Pérez Dayán, respectively (the “Draft Rulings”). In these appeals the federal government is challenging a first-instance amparo ruling that declared several amendments to the Power Industry Law published in the Federal Official Gazette on March 9, 2021 (the “LIE Reform”) unconstitutional.

However, the SCJN temporarily removed the Draft Rulings from its docket and postponed the hearings related to the appeals in question, among other things because prior to the September 27 hearing, the Ministry of Energy filed two separate motions to recuse Justices Luis María Aguilar Morales and Alberto Pérez Dayán from hearing and deciding on the appeals. The motions were filed on the grounds that both justices are part of an NGO that filed several amparo claims against the LIE Reform and consequently, their impartiality might be compromised. The SCJN will need to decide on these motions before discussing the Draft Rulings.

If the SCJN were to find that there are grounds for both Justices to recuse themselves, neither of them will be able to discuss or decide on the Draft Rulings and Justices from the First Chamber of the Supreme Court would have to be called in their stead. In Justice Pérez Dayan’s case, if the Court were to find that he should recuse himself, the case for which he drafted his proposed ruling would be assigned to another Justice to prepare a new draft ruling. Regardless of the aforementioned, by analyzing similar precedents, we believe that the Court will find both motions without grounds.

Once these motions are ruled upon, the SCJN will set a new date to discuss the Draft Rulings.

Should you have any additional questions or comments, we are at your service.

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