

PEMEX’s policy of refusing to contract with companies that have pending claims against it is declared unconstitutional

Mexico City, March 3, 2026

On February 27, 2026, a non-binding decision (*Tesis: I.100.A.60 A (11a.)*) issued by the Tenth Collegiate Court in Administrative Matters of the First Circuit was published, holding unconstitutional PEMEX’s policy of refusing to enter into contracts with companies that have pending claims against it.

The case arose from a procurement process in which, although the contract had been awarded to a company, execution was conditioned upon a due diligence opinion that ultimately deemed the transaction “not viable” due to the existence of ongoing litigation against PEMEX. The Collegiate Court granted amparo relief to the claimant, finding that the restriction violated the constitutional principles of legality and legal certainty.

The Tribunal held that conditioning contract execution on the absence of pending litigation exceeds the legitimate purpose of PEMEX’s due diligence policies, as there is no objective nexus between the mere fact of bringing a claim against PEMEX and the mitigation of risks such as corruption or corporate integrity concerns.

Although the decision is not binding precedent, it is significant for companies participating in procurement processes with PEMEX while simultaneously maintaining judicial or arbitral claims against the entity. The ruling opens the door to challenging procurement denials based solely on the existence of pending litigation.

Companies should assess the potential impact of this development on ongoing or future procedures and, where appropriate, consider available avenues for challenge.

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