CERTIFIED COPIES

Sixteenth Tribunal of the District Administrative Matters in and for the Federal District

Without text

Redacted 720

Wherefore; in order to resolve the petitions of the amparo trial 1093/2012, filed by [xxxxxxxx], [xxxxxxxxx] and [xxxxxxxx], as against the acts of the President of the Republic and three other authorities, alleging them to be violative of articles 1, 4, 8, 16, 17 76, fraction I, 89, fraction X and 133 of the Political Constitution of the United States of Mexico, and;

WHEREFORE

FIRST, Through the document filed the third of October of two thousand and twelve, at the general mail office for the District Court for Administrative matter of the Federal District, [blacked out], [blacked out] and [blacked out], sought writ and protection offered by the Federal Law as against the following authorities and acts:

"III. RESPONSIBLE AUTHORITIES. They are:

a) President of the United Mexican States.

b) Ministry of Foreign Affairs.

c) Arturo Sarukhan, Mexican Ambassador to the United States of America.

"IV. ACTS IN QUESTION. Are the following:

1) On the responsible authority identified in subsection a) of the previous chapter it is claimed that the verbal and/or written order to the Ministry of Foreign Affairs granting diplomatic immunity to the former President of the Republic, Ernesto Zedillo Ponce de Leon is unconstitutional as it has no basis in law, nor any reason, thus directly violating the human rights on Articles 14 and 16 of the General Constitution of the Republic.

2) On the responsible authority identified in subsection b) of the previous chapter it is claimed that the verbal and/or written order to the Ministry of Foreign Affairs granting diplomatic immunity to the former President of the Republic, Ernesto Zedillo Ponce de Leon is unconstitutional as it has no basis in law,

1 [bar code on right]

nor any reason, thus directly violating the human rights on Article 14 and 16 of the General Constitution of the Republic.

3) On the responsible authority identified in subsection c) of the previous chapter it is claimed that the request for diplomatic immunity for the former President of the Republic, Ernesto Zedillo Ponce de Leon, in the diplomatic letter identified by number 07654, of November 4, 2011, addressed to the US State Department, has no basis in law, nor any reason, thus directly violating the human rights on Article 14 and 16 of the General Constitution of the Republic.

4) On the responsible authority identified in subsection d) of the previous chapter it is claimed that the expansion and/or change and/or dissemination of the document issued to assert before various National and International entities the Diplomatic immunity of former President of the Republic, Ernesto Zedillo Ponce de Leon, as well as the collection, sending and dissemination of our personal information to be sent to the US, so that neighboring nation can take actions against us for filing a claim against a former Mexican president, has no basis in law, nor any reason, thus directly violating the human rights on Article 14 and 16 of the General Constitution of the Republic.

5) On the grounds of the aforesaid, all the natural and legal consequences of the aforementioned claims are asserted.

SECOND, by agreement made on the eight of October of two thousand twelve, having granted prior preliminary injunctive relief, the Amparo Complaint was therefore admitted for proceedings, the same being docketed under case number 1093/2012; was assigned to the Agent for the Public Prosecutor's office of the Federation with proper jurisdiction; the responsible authorities were asked to provide reports in justification of the claimed acts; it was ordered that notice should be given to the Aggrieved Third Party, and the time and date was set for the Constitutional hearing.

THIRD, on the thirteenth day of November of two thousand and twelve, the Aggrieved Third Party was server, and on the subsequent sixteenth day, he filed his notice of appearance in the instant cause, by and through power of attorney

[bar code appears] 2

Whereby the personality was established on the twenty first day of the same month and year.

FOURTH. Through an order of the twenty first of November of two thousand twelve, the complainants were required to answer whether it was their intention to expand their complaint insofar the "Memorandum of Points", and warned of the fact that if they did not the trial would continue only based on the contents of the initial complaint; and thus being that through a written document filed on the twenty six of the same month and year, they did expand the constitutional review.

FIFTH, by agreement made on the twenty sixth of November of two thousand twelve, the expansion to the Amparo Complaint was accepted as against the aforesaid "Memorandum of Points"; wherefore, through the Pleading ASJ-47207, of the twenty ninth day of November of the instant year, the Director General for Judicial Issues of the Secretary of Foreign Relations, in representation of the ## Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - in his proper title, presented a justified report as per the previously cited expanded amparo, in which it represented, among other things, that the act complained of constituted but a simple internal communication, lacking any judicial value as it enunciated mere opinions that is not binding on anyone.

SIXTH. Thusly, through a writing presented the sixth of December two thousand and twelve, the common representative for the Complainants, in his name and the rest, withdrew said expansion of the complaint, ratifying the afore described decision by appearing in person on the same date; and thus in that audience it was agreed to deem the same as withdrawn, and thus, the case would be tried as per the acts complained of in the original filing.

SEVENTH. On the other hand, it is important to note that through a writing filed the thirtieth of November, two thousand and twelve, at the office for mail office of the Collegiate Circuit Courts of First Circuit of Administrative Matters

3 [bar code]

The Aggrieved Third Party filed a complaint proceedings as against the decision taken on the eight of October of the same year, through which this District Court accepted the Amparo Complaint; field and heard in the First Collegiate Tribunal of the same matter and jurisdiction, with the appellate case number Q.A. 134/2012-1723; however, through a judgment issued during the hearing held of the seventeenth of January of two thousand thirteen, filed by the complainants against that pleading attacking the filing, it was decided to dismiss that complaint proceeding as it was decided that the Aggrieved Third Party was properly served on the thirteenth of November of two thousand and twelve, and thus his complaint proceeding was groundless.

EIGHT. Through pleadings filed on the fifth and eleventh of December of two thousand and twelve respectably, the First Collegiate Circuit Courts of Administrative Matters of the First Circuit informed that the Director General for Judicial Issues of the Secretary of Foreign Relations, in representation of Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - in his proper title - and the Aggrieved Third Party filed each complaint proceeding as against the previously described admission of the expansion of the complaint, filed under docket number Q.A. 133/2012 and Q.A. 136/2012, the same deemed immaterial during the hearing held on the fourteenth day of February of two thousand thirteen by the aforesaid court.

NINTH. Through a writing presented the twelve day of December of Two Thousand twelve, in the registry of parties of this District Court, the Aggrieved Third Party requested a formalization of the proceedings of Amparo trial, seeking at that the complainants be ordered to personally ratify the voluntariness of the withdrawal of the expansion of the amparo; which request was not granted in accordance with

That which was ruled on the same day, on the basis that the Aggrieved Third Party lacks standing to question an act that benefits him, that being the withdrawal of certain complaints.

TENTH. Not in agreement with the prior decision, the Aggrieved Third Party filed a complaint proceeding before the First Collegiate Circuit Court in Administrative Matters of the First Circuit, which docketed under case number Q.A. 1/2013, which during its session of the 14th day of February of two thousand thirteen dismissed the aforesaid pleading.

ELEVENTH. Proceedings continued and the Constitutional hearing was held, which was held as per the preceding act and ended with the instant order of judgment; and

W H E R E A S:

FIRST. This District Court is legally competent to hear and dispose of the instant amparo trial, pursuant to articles 103 and 107, fraction VII, of the Political Constitution of the of United States of Mexico, 36 of the Amparo law, ; 48 in relation to 52, both of the Organic law of the Judicial Power of the Federation, as well as based upon the fourth point, fraction I, of the General Agreement 3/2013, of the whole Council of the Federal Judiciary, in relation to the number and territorial limits of the circuits into which the territory of the Republic of Mexico is divided, and to the number, territorial jurisdiction and specialization in term of substance matter of the [Collegiate Circuit Courts y de los District Courts; in light that the claimed acts are by authorities that belong to the Central Federal Public Administration, which have their official seat in this territorial jurisdiction.

 [bar code appears]

SECOND, Before analyzing the issue of the certainty of the claimed acts, it is necessary to define what these are, in accordance with what is set forth in article 77, fraction I, of the law of Amparo; thus undertaking a joint analysis of the claim for rights guaranteed by the constitution, that addresses the issue at hand.

The opinion adopted by the Nation's Supreme Court of Justice meeting in plenary session, is applicable for its content and breadth, as found in the Weekly Judicial Reporter of the Federation, and its Gazette, in its ninth epoch, tome XIX, April 2004, thesis P. VI/2004, found in page 255, which header and text read:

"ACTS IN QUESTION. Rules for its clear and precise determination in the Amparo Judgment.

Article 77, fraction I, of the Amparo law sets forth that the resulting judgments in the trial over Constitutional guaranties shall include shall contain clear and precise determinations of the Acts in Question , as well as set forth the evaluation of the supporting proof that supports the occurrence of the acts; likewise, The Nation's Supreme Court of Justice has set forth the criteria that that in order to reach such a determination its necessary a complete reading of the complaint without regard to the emphasis that in its presentation is made as to its constitutionality or unconstitutionality. Nevertheless, in some cases this will prove to be insufficient, and thus the triers of the amparo will need to additionally harmonize the facts set forth in the initial complaint, in a way that shall be congruent with its elements, and even with the whole of the information found in the trial record, giving the benefit to the thinking and intention of the complainant, disregarding those finding that generate obscurity or confusion. This means, the trier of the amparo, when determining the Acts in Question , shall look towards what the complainant intended to state, and not only to that which he appears to have stated, because only in this way will there by harmony between what is asked for and what is adjudged."

Upon reading the claim for rights guaranteed by the constitution in its entirety, the claimant complains insofar the following acts:

* The oral or written order by the President of the Republic to the Secretary of Foreign Relations of granting diplomatic immunity to the Aggrieved Third Party.

[bar code] 6

7 723

* The oral or written order from the Secretary of Foreign Relations to the Extraordinary and Plenipotentiary Ambassador of Mexico in the United States of America to grant diplomatic immunity to the AGGRIEVED THIRD PARTY.

* The Diplomatic note 07654, of November four of two thousand eleven, addressed to the State Department of the United States of America and issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in that nation.

* The enlargement, and/or modification and/or diffusion of the issued document with the purpose of giving validity before different national and international forums the diplomatic immunity as to the AGGRIEVED THIRD PARTY, as well as the compilation, conveyance and diffusion of the personal information of the complainants and conveyance of said information to the United States of America.

THIRD As this is a preliminary analysis, it allows the study of the complaint proceeding propounded or that may be identified sua sponte, as well as the merits of the issue, next is the existence or lack thereof of the claimed acts.

It is applicable, where appropriate; the Jurisprudence set for by the Second Collegiate Circuit Courts of the Seventeenth Circuit, as found in page 68, tome 76, of April 1994, Eight Epoch, of the Gazette of the Weekly Judicial of the Federation, of the detail and text as follows:

Acts claimed, or lack of certainty. Technique in the injunction. The article 91, section IV, of the Amparo Law provides that to revoke the judgment and send replenish the procedure when, inter alia, the District Judge or the authority which handled the trial of first instance has incurred any omission

7 bar code

likely to affect the judgment to be delivered in short. On the other gear in accordance with the technique governing amparo, amparo judgment throughout, whether direct or indirect, the authority hearing the same, you must first analyze and solve with respect to the accuracy or lack of acts claimed and only in the first case, the claim or not the parties, must study the causes of inadmissibility alleging or that its criteria are updated, to, finally, if appropriate judgment dictate the resolution of substantive law applicable. This is, among other reasons, because if not combated certain acts, be idle, for logical reasons, focus on the study of any cause of inadmissibility and in the event of being founded some of them, legally impossible to analyze the substance, in other words, the study of some cause for inadmissibility or substance, means, in the first case, that the acts complained of are true and in the second, as well as being certain acts claimed, guarantees trial is unprecedented. For the sake of the study no certainty or lack of acts claimed by the District Judge, whether it is contrary to the technique of injunction in the terms outlined above, among other issues, the lawsuit disrupts the resource Revision to enforce the parties and limits the defenses of these, because the judgment rendered in the appeal, may lack legal basis, unable to accurately clarified, first, the matter of the appeal and, secondly on what acts of defendants is appropriate, if any, to grant the relief, without the court's knowledge can compensate for the omission pointed to lack authority to do so, it is the duty of the Judge of District address the issue at tries, thereby fulfilling the constitutional obligation to provide the parties fullness of defense against an act of authority that affects their legal rights, such as the final decision rendered by him. So, if the District Judge failed, previously to study the cause of inadmissibility that founded estimated, the analysis of the accuracy or acts claimed lack of updates the legal assumptions referred to in Article 91, section IV, of Amparo Law, proceeding, therefore, reverse the judgment and order to reinstate the procedure.

[bar code] 8

9 724

Likewise the thesis set forth in CXLVII/2007 of the Second Chamber of the Nation's Supreme Court of Justice, published in page 439 of the tome XXVI, of the Judicial Weekly of the Federation and its Gazette, corresponding to October of 2007, is illustrative to this point where it states:

Act claimed. The failure of the judge to rule on the defense of his existence must repair the reviewing court informally. Of articles 74, section IV, 77, sections I and II, and 91, section III of the Law of Amparo, is averted it the duty of judge to assess the evidence of collateral held by the trial relating to sentencing have at accredited or not the existence of the acts claimed in the application, as it is a matter of prior analysis whose statement in his case will study the causes of invalidity and the merits of the dispute. In that vein, to the failure to make that statement in the judgment under appeal, the reviewing court must address it-even if no harm whatsoever in this regard, and make a determination on the matter, it would not be legally consistent approach to revision based causes of impropriety or the substance if it is proven the existence of acts claimed in the injunction.

It is not true the claimed act on the part of the President of the republic, consisting in the oral or written order to the Secretary of Foreign Relations of granting diplomatic immunity to the Aggrieved Third Party, since it thus set forth when it presented the justified report (folio 298 and 299) there being no proof to the contrary that would discredit that negation.

Likewise, It is not true the claimed act attributed to the Secretary of Foreign Relations consisting of oral and/or written instructions to the Extraordinary and Plenipotentiary Ambassador of Mexico in the United States of America to grant diplomatic immunity to the Aggrieved Third Party, as the said authority denied it in its justified report (pages 301 and

9 [bar code]

302) and the claimants did not provide any proof to destroy said manifestation.

Finally, it is likewise not true the enlargement and/or modification and/or diffusion of issued document with the purpose of giving validity to the diplomatic immunity of the third affected party, as well as the compilation, conveyance and diffusion of the personal information of the complainants in order to remit the same to the United States of America, as the complainant claim of the Sub secretary for North America of the instant Federal Organ, as this was set forth in its justified report (pages 287 and 288), and the claimants did not provide any proof to undermine said affirmation.

Indeed, the denial of the aforesaid authorities is strengthened, since it is impossible from the pleadings filed to find any proof that will undermine what is set forth by the parties identified as responsible, more so since the complainants did not provide proof ideal to destroy the claims set forth in the justified reports.

Thus it is applicable to the reasoning set forth the thesis issued by the First Collegiate Tribunal of the Second Circuit, found in page 56, tome III, second part -1, January to June of 1989, Eight Epoch, of the Judicial Weekly of the Federation and its Gazette, which states:

Proof, Charge of. Lies with the complainant's refusal to do the acts complained of responsible authorities to make their report justified. The obligation imposed by Article 149 of the Law of Amparo, in the sense that the responsible authorities, to render their reports justified, should explain the reasons and legal grounds they deem appropriate to sustain the constitutionality of the act or inadmissible in the judgment and accompanied, where appropriate, certified copy of the records required to support it, becomes effective only when

such documents are required to support the report, in which the authorities admit their existence and argue its legality, but not when those authorities denied, categorically, the act as charged, because in such a case, the District Judge is not in a position to analyze the constitutionality of the latter, being in charge of the plaintiff's judgment provide guarantees, first, the means of evidence tending to establish the certainty of the act in question and then those intended to justify the data, reasons and grounds on which to say it is illegal, hence if the authority fails to submit his report justified the records respective guideline only gives it that is made worthy of a fine, but in no way relieves the plaintiff of the burden of refuting the negative of the act do the responsible authorities, and in such a scenario, to demonstrate the unconstitutionality of the same .

Likewise the thesis set forth by the Nation's Supreme Court of Justice meeting in plenary session, found in page 181 of the tome XXLIII, First part, of the Sixth Epoch of the Judicial Weekly of the Federation, is illustrative where it states:

Report justified, refusal of the acts attributed to the authorities. If the makers deny acts attributed to them, and the plaintiffs do not detract from this refusal, it should proceed to adjudicate in terms of Section IV of Article 74 of the Law of Amparo.

In light of the above established, it is right to dismiss in the instant trial on Constitutional guaranties, insofar the authorities and acts described, in conformity with what's established in Article 74 of the law of Amparo.

This is so since the systematic interpretation of Articles 1, fraction I, 74, Fraction IV and 78, of the law of Amparo, reveals that the Constitutional Trial lies as to acts that are concrete and exist, not probable or eventual, hence, before analyzing other issues, the trier of the Amparo needs to analyze the body of evidence and determine based on the pleadings and filings of record

11 [bar code]

If the claimed acts are established within it or not, since only when that is the case, can he proceed with the study of the objections interplead and, eventually, to the merits, as set forth in the jurisprudence 36/98, of The First Hall of Mexico's Supreme Court of Justice published in the Judicial Weekly of the Federation and its Gazette, tome VII, June of 1998, Page 5, which states:

Act complained of a positive nature, its existence must be analyzed according to the date of filing of the application, even in the case of arrest warrants. When it comes to acts of a positive nature, its existence must be analyzed according to the date of filing of the petition for relief, even assuming that it is an arrest warrant, for the judgment of existing acts necessary guarantees and specific unproven or possible, a conclusion that is obtained from a proper insight of articles 1., section I, 74, section IV and 78 of the Amparo Law, under which those provisions do not serve the area in which originated the act, nor to the nature and characteristics of it, so that if the warrant is figure after the filing of the petition for relief must be dropped for lack of the act.

FOURTH. It is true the act attributed to the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - in his proper title - (pages 254 through 285), consisting of the diplomatic note 07654, of November four of two thousand eleven, addressed to the State Department of the United States of America; as such was manifested by said authority when it presented its justified report, corroborated with the contents of said missive, of record pages 233 through 235 of the Amparo trial.

The criteria set forth in jurisprudence 278, of the Nation's Supreme Court of Justice meeting in plenary session, found in page 231, tome VI, of the appendix to

The Judicial Weekly of the Federation, of 1997 to 2000, supports this position where it states as follows:

Affirmative Justified Report. If the true authority confesses in it to the act complained of must be taken as fully tested it, and entered to examine the constitutionality of the act.

FIFTH. Prior to going to the merits, it is appropriate to analysis the grounds for dismissal, propounded by the parties or that may be identified sue sponte, as it's that examination and study is public policy, in accordance with the last paragraph of Article 73 of the Law of Amparo.

Thus it is applicable to the reasoning above set forth the jurisprudence 814, set forth by the by the First Collegiate Tribunal of the Second Circuit, found in page 553, tome VI, of the appendix to the Judicial Weekly of the Federation, which heading and text read::

"Grounds for Dismissal of, In the Amparo Trial. The grounds for dismissal in the amparo trial, being based on public policy, should be analyzed at the commencement, whether so requested by the parties or not, whichever the case may be."

In this case, this District Court raises, sue sponte, that the ground for dismissal set forth in article 73, fraction XVIII, of the law of amparo, in relation to numeral 107, fraction I, of Political Constitution of the United States of Mexico, does lay as to the complainant Omar Perez Luna, as he failed to set forth and accredit his standing to bring forth this Amparo trial, as he failed to bring forth any document to prove that he is part of the civil trial that he claims to be a part of, and, therefore, that he is affected by the diplomatic note at issue.

In further support of the above reasoning, firstly, a systematic interpretation of Articles 73, fraction XVIII, of the law of Amparo, and 108, fraction I, of the Political Constitution of the United States of Mexico, the amparo trial does not lie

As against acts that do not affect the interests of the petitioner, as set forth below:

Article 73. The Amparo Trial Does not Lie:

XVIII. In all other cases where the dismissal results from the application of law.

article 107. talking the disputes article 103 of this constitution, except those on elections, which, under the procedures to determine the procedural law, under the following conditions: (refurbished by decree published in the official journal of the federation on 6 June 2011)

i. the trial of amparo is always follow part instance aggrieved, taking as character who argues be a right holder or a legitimate interest individual or group always claiming that the claimed act violates the rights recognized by this constitution and therefore is legal sphere affect either directly or under your special situation facing the legal order. acts or decisions regarding court from legal, administrative or work, the complainant must be holder argue subjective right way to apply for personal and direct;

From the above, its evident that due to the Constitutional reform published the sixth of June of two thousand eleventh in the Official Daily of the Federation, the principle of the affected party in the amparo trial underwent a transformation insofar the type of interest required to bring forth the constitutional recourse above cited, since previously it was necessarily to provide proof in all cases of "judicial interest:, however, since the entry into force of said dispositions the following precepts were established:

a) When it is maintained to be the holder or a right (judicial interest); or

b) Upon the affirmation of having a legitimate individual or collective interest.

In the first instance, the governed alleges that the claimed act violates rights recognized in the General Constitution of the Republic, and, as a result his judicial sphere is affected, which translates into the fact that the private individual by necessity should

Should prove that he is the holder of the rights that is being injured by the responsible authority, this means, needs to show his judicial interest.

It should be noted that the Permanent Constituency instituted a rule in relation of acts and decrees emanating from judicial, administrative and labor tribunals that required that the complainant shall offer proof showing that he is the holder of a subjective right that is affected in a personal and direct manner, meaning, that it should accredit the judicial interest, excluding from those instances the legitimate interest.

This means that, when dealing with those act issued within the legal procedure, the rule is that the complainant shall accredit his judicial interest, meaning, show that he is the holder of a judicially protected and legitimate right.

Within this line of reasoning it is appropriate to note that the above cited rule is not only applicable to trials (proceedings before tribunals), but also administrative proceedings that follow the form of a trial in accordance with what's set forth in article 114, fraction II, second paragraph of the law of amparo, in as much as it is criteria repeatedly set forth by the Supreme Court of Justice of the Nation that the rules of procedure in constitutional trials are applicable to administrative procedures that materially constitute a trial, when meeting the formalities set forth in article 14 of the General Constitution of the Republic.

On the other hand, in the second instance the governed claims to hold a legitimate individual or collective interest, by virtue of his special situation before the legal order. It should be noted that through this action the individual pretends to defend

Primarily general or collective rights (environmental matters, consumer protection, etc...)

In this way, one of the principal objectives on the before mentioned constitutional reform of the sixth of June of two thousand eleven, was precisely to grant access to justice, through the amparo trial, to those private individuals who may have been affected in their judicial sphere by acts by the authorities (legitimate interest), even though they are not the holder of a subjectively judicially protected right (judicial interest), this with the clear goal of widening the number of those who are governed who could have access to the constitutional process so as to defend their interests.

Thus, the judicial interests has a different connotation to the legitimate one, as the first requires proof of injury or effect to a subjective right, the second supposed only the existence of a qualified interest insofar the acts subject to review, interest that comes from the injury to the judicial sphere of the individual, be it directly or due to his particular situation in respect to the legal order

It is important to note that upon availing yourself of an Amparo Trial, the complainant should place himself as belonging to one of the two before descried judicial categories, this is, as being directly affect as to a judicially protected right (judicial interest), or adduced to possess a legitimate interest, individual or collective, by virtue of his especial situation before the Court legal order

In other words, the aforementioned situations are mutually self-exclusive, since it would not be logical nor justifiable for the complainant to offer proof of a legitimate and judicial interest simultaneously, since he must present himself as belonging to one or the other, but not both.

Thusly, Body of Constitutional Control upon review must examine in each case the nature of the acts subject to claim and the claimed effect as set forth by the complainant. [bar code] 16

Insofar his judicial sphere, be it as the holder of a right or by virtue of his especial situation before the Court legal order , thus identifying whether the proof as to the "judicial interest" can be required, or simply to show a legitimate interest.

In the pleading, complainant [XXXXXX] states that Diplomatic note 07654, of November four of two thousand eleven, issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in the Unites States – in his proper title- and addressed to the State Department of the United States of America through which the responsible authority sought jurisdictional immunity in favor of the Aggrieved Third Party, the object of which was that the Aggrieved Third Party not be civilly tried in that nation, arguing that he is an ex-head of Estate and thus enjoys that judicial benefit; thus the claimant needed to have proven to have been party to the aforesaid civil complaint that the international missive refers.

This is so because the aforesaid diplomatic note has as its stated aim that the Aggrieved Third Party not be the subject of a civil trial currently pending against him, and thus, if the effected result was obtained, it would affect those civil claimants, since the lawsuit would be deemed ended since it would be legally impossible to proceed against the Aggrieved Third Party, this by virtue of the immunity petition sought to his benefit by the Mexican Estate, and thus it follows that if [XXXX] failed to bring forth proof to demonstrate that he is part of the civil case brought before the Connecticut District Court of the United States, he has no right to any claim as to the diplomatic note, since whatever the previously stated court may eventually rule, even if it was to terminate in an extraordinary fashion the civil case, it shall cause him no harm whatsoever,

17 [bar code]

In other words, the fact that the responsible authorities issue a suggestion of immunity to the American State Department seeking that the Aggrieved Third Party not be subjected to civil jurisdiction in that country, specifically, to the civil process as a party thereto, since due to the immunity request at issue, the complainants will see their objective of bringing forth a civil lawsuit wherein their claims are resolved, it is logical that since it has not been proven that [XXXX] is a plaintiff is the case, in no way can he be affected in this sphere of rights due to the diplomatic note at issue.

In this regard, it is necessary to determine what is understood as a judicial interest insofar the justiciability of an amparo trial and for what the criteria set forth in the jurisprudence issued by the First Chamber of the Nation's Supreme Court, published in page 35 of the Gazette, number 60 of the Judicial Weekly of the Federation which states the following"

Interesting legal notion. For the origin of the protection. The legal interest necessary to resort to amparo has been thoroughly defined by the federal courts, especially the Supreme Court of Justice of the Nation. In this regard, it has been argued that the legal interest can be identified with what is known as a subjective right, i.e. that right, derived from the objective norm is specified individually in any given object giving it an ability or power to demand enforceable against authority. Thus we have the act of authority is claimed must affect or relate to the legal rights of any individual. In this way it is not sufficient to prove the legal interest in the protection, the existence of an abstract situation for the benefit of the community that does not grant an individual the right to demand certain that abstract situation is met. Therefore has legal interest only to

10 729

whom the rule of law gives the power to demand referred and therefore lacks that interest any member of society, by the mere fact of being, who claims that the laws are enforced. These features of the legal interest in the injunction are consistent with the nature and purpose of our constitutional adjudication. Indeed, pursuant to Rule 107, Sections I and II, of the Constitution of the United Mexican States, the injunction should be promoted only by the party who suffer the injury caused by the act in question, for the statement that is issued only protect it, in compliance with the principle known as special relativity or particularity of the judgment.

[bar code] 18

On these basis, it is simple to note that the that the grounds for dismissal currently under review only as to [XXXXX], since he did not render proof that he had any judicial interest so as to bring forth the amparo trial against diplomatic note 07654, of November four of two thousand eleven, issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in that nation – in his proper title, and addressed to the State Department of the United States of America; since he did not prove being a part or complainant in that civil trial filed against the third affected party, as he had affirmed in his amparo complaint.

This is so because the claimant [XXXX] failed to accredit that he a part or complainant in that civil trial 3:11-cv-01433-AWT, filed in the District Court of Connecticut, United States of America, take notice that none the certified copies of the birth certificates filed under docket items 32 through 39 of the pleadings file are his, but of the other complainants [XXX] and [XXX], and of their deceased family members, and the certified and apostilled copies of the petition to proceed anonymously and using pseudonyms so as to safeguard

19 [bar code]

Confidentiality, from "Jane Doe 1'through"Jane Doe 6", in the civil case filed against the third affected party, as well as in the respective translations filed under docket items 396 through 470, are of the different complainants, but not that of [XXXX].

The foregoing are proof that [xxxxx] did not prove in the constitutional trial to be originally from Acteal, Chenalho, State of Chiapas, Mexico, nor that he lost family members the twenty second of December of two thousand ninety seven, the same he categorically affirmed in his Amparo Complaint; and even less did he establish that he had filed a civil complaint against third affected party, whether as an third party of complainant, nor is there a logical correlation between his name and the pseudonyms used in the permission to protect personal data in neighbor country.

Hence, if the complainant [XXX] did not prove his ethnic origin, nor his logical judicial nexus between the judicial petitions filed by the complainants seeking leave to proceed anonymously and using pseudonyms, nor did he show that his personal date corresponded to "Jane Doe 1'through "Jane Doe 6", and even less that he was a part of the complaint filed before the Federal Court of the State of Connecticut, case number 3:11-cv-01433-AWT, it is clear that he did not render proof that the diplomatic note at issue affect his judicial interest; therefore, it should be adjudge the dismissal in the guarantee trial only in respect to the complainant at issue, in accordance with articles 73, fraction XVIII, and 74, fraction III, of the law of Amparo, and 107, fraction I, of the Political Constitution of the United States of Mexico.

This consideration are based on the criteria set forth by the Nation's Supreme Court of Justice meeting in plenary session,

[bar code] 20

published in the Judicial Weekly of the Federation 109-114, First Part, page 191, Seventh Epoch, which states:

Judicial Interest, Proof of. Those persons that consider themselves affected by the law that is alleged to be unconstitutional, in order to prove their judicial interest in the amparo trial asserting the same,, must show that they fall under the applicable law. The showing can be achieved through any of the means of proof allowed for in the laws; and, if no proof exists that shows that the claimants fall under the scope of the law, the case cause should be dismissed.

Likewise the jurisprudence 1/2002 set forth by the First Chamber of the Maximum Tribunal, published in the Judicial Weekly of the Federation and its Gazette, tome XV, page 15, February 2002, ninth epoch, where its header and text read:

JUDICIAL INTEREST IN THE AMPARO TRIAL. BURDEN OF PROOF. The procedurally imposed burden of proof established by articles 107, fraction I, of the Political Constitution of the United States of Mexico and 40 of the Law of Amparo indicates that the Proponent of trial of guarantees mist show his judicial interest, which cannot be deemed satisfied by the fact that the responsible authority recognizes, in a generic form, the existence of the act, in virtue of the fact that the existence of the act is one thing in and of itself, and the prejudice that may result to a person from the same is yet another.-

SIXTH. Since, through sue sponte review, there appears no other grounds for dismissal, its proper to analyze those grounds set forth by the responsible authorities, the Aggrieved Third Party and the Public Prosecutor of the Federation before this District Court.

In that sense this the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - in his proper title (pages 254 through 285) and the

The public prosecutor practicing before this court {ages 500 to 5 10) claim cleaning systems all the grounds set forth the articles 73, fraction ix, as related with numeral 80, of the law of amparo, reasoning that the diplomatic note is a irreparably completed act, as it was delivered to the addressee, since it yielded all of its effects from the very moment of its transmission, given the fact that the Department of State of the United States already set forth its position, informing the acting prosecutor of the Department of Justice of that nation, so that he could, in turn, notify the District Court of Connecticut that the aggrieved third party enjoys diplomatic immunity as it relates with the judicial action field against him.

In order to verify the validity of the grounds for dismissal, one should keep in mind the content of articles 73, fraction IX, and 80 of the law of Amparo, the latter only in the part that sets forth the effects of the judgment that grants the constitutional protection as to the positive acts, that being the nature of the facts at issue:

Article 73. The Amparo trial does not lay when

IX. Against consummate acts irreparably ... "
Article 80. The judgment granting protection will aim to restore the injured party full enjoyment of individual security breached, restoring things to the state prior to the rape, when the act in question is a positive one ... "

In accordance with the transcribed numeral, the amparo trial does not lay when the claimed acts should be considered irrevocably consummated.

In that sense, irrevocably consummated should be understood to be those acts that have already produced all of their effect, so that it results impossible to grant relief to the complainant

[bar code] 22

23 731

So that he may enjoy the fundamental right that was transgressed, which leads the amparo lawsuit to be deemed inappropriate and subject to dismissal since, even of the sought relief was granted, the judgment would lack practical effect, since it would be materially impossible to correct the subject violation.

It is important to note that irreparable consummation at issue is of a material or physical nature, in other words, that which having produced all of its effects and material consequences lies outside of the reach of judicial instruments. Contrariwise, when in an amparo lawsuit the claim is made that while an act has taken place, if by obtaining the status quo ante would leave such acts void of legal effects, or when the material consequences produced can be undone, then it should be understood that the grounds for dismissal do not lay.

In conclusion, the amparo trial has a practical goal, which conditions its appropriateness to those instances when the relief sought can yield the relief sought and the whole enjoyment of the aggrieved fundamental right.

Due to its substance and scope the thesis P. XXIX/2008 supports the aforementioned considerations, as set forth by the Nation-s Supreme Court of Justice meeting in plenary session, appearing in page 12 Tome XXVII, February of 2008, of the Weekly Judicial Reporter of the Federation, and its Gazette, in its ninth epoch, tome XIX, April 2004, thesis P. VI/2004, found in page 255, which header and text read:

Expropriation, not a completed act beyond repair. The cause of the amparo inadmissible under section IX of Article 73 of the Law of Amparo on consummate acts irreparably, refers to those, whose effects were completely madewithout legal or factual possibility to return things to its previous state,

23 [bar code]

so that violations occur when wronged cannot be repaired through injunction, which does not happen in the case of an expropriation, because even though the authorities may come into possession of the property, the acts are effects which may disappear, returning things to the state they were.

It is as well applicable, though in the apposite sense, the jurisprudence 2a./J. 171/2007, set forth by the Second Chamber of Mexico's Supreme Court, appearing in page 423 Tome XXVI, September 2007, ninth epoch, of the Weekly Judicial Reporter of the Federation, and its Gazette, which states:

Arrest, if it was executed, the injunction initiated against, is inadmissible as constituting an act consummated beyond repair. Of Article 73, Section IX, and 80 of the Amparo Act reveals that there are consummated acts beyond repair, which have produced all their effects, so it is not possible to restore to the plaintiff in the enjoyment of individual security breached, which makes inadmissible the amparo granted because of constitutional protection, the sentence without any practical purpose, not to be feasible to restore matters to the state prior to the rape. In that vein, it turns out that because of inappropriateness is updated when promoting injunction against arrest already executed, for having accomplished irreversibly violation of personal liberty, since it is outside the scope of the legal instruments to restore to plaintiff in the enjoyment of that right, to be physically impossible to reimburse the freedom that was deprived, without the fact that it is feasible to repair the damage that such an act could result from the trial make guarantees, because when dealing with constitutional control means through which individual rights are protected, the judgment rendered is meant only to remedy the violation, no deductions claims of nature other than the declaration of unconstitutionality of an act, as might be responsible heritage.

This is without prejudice as to the legality of the act or the responsibility, if any, can be attributed to the authorities to have participated in it, or limit the right of the individual could attend to demand, through pathways corresponding repair damage that could cause the act.

Now, it is proper to indicate that in the Diplomatic note 07654, of November four of two thousand eleven, issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States requested from the Department of State of that foreign nation the immunity in favor of the aggrieved third party, seeking the effect that he not have to face the civil trial 3:11-cv-01433, filed before the District Court of the State of Connecticut.

This has singular relevance in that the sought objective of the responsible authority is that the aggrieved third party not be tried abroad due to a civil complaint filed before a Federal Court, which under the Habana Convention (Diplomatic Functionaries), published in the Official Daily of the Federation the twenty fifth of March of one thousand twenty nine, and of the Vienna Convention on Diplomatic Relations published on the third of August of one thousand seventy five in the same official daily translates to - jurisdictional immunity-, which implies the incompetence of judicial or administrative authorities to hold proceedings against Heads of State or of mission, or diplomatic employees.

The effect of the jurisdictional immunity is applicable to members of diplomatic missions (which include their heads of state), when in their capacity of actors of the accrediting estate, when in the performance of acts that fall under the jurisdiction of the internal legal system of the host country, such as the acquisition of real estate, furniture or vehicles for the use of the mission.

It is important to note that if as a consequence of these acquisition some liability should be incurred, the

Diplomats could invoke jurisdictional immunity as long as the issue involved acts strictly related with their function; hence, the aforementioned jurisdictional immunity of the mission members is part of the privileged that belongs to the accrediting estate (under the principle that one estate cannot sit in judgment of another.)

In that context, diplomatic channels are the obligatory method to assert jurisdictional immunity of the agent or the mission, so that the tribunal or court abstains from hearing the case. For that end, the chief of the mission should sent a diplomatic note to the Ministry of Foreign Affairs of the host estate requesting that, through the competent authority, terminate the judicial proceeding (archiving or dismissing the case), provided that the person who is the intended recipient of the privilege has not performed any act, express or implied, through which he subjects himself to local jurisdiction. (Perez de Cuellar, Javier, Manual on Diplomatic law. Fondo de Cultura Economica, Mexico, 2003, second edition)

On these basis, it is simple to note that the basis alleged for dismissal do not exist, in as much as the main intention of the responsible Chancellery, relating that the aggrieved third party not be subjected to the foreign judicial proceedings at issue and the same be permanently archived on the basis of that eventual jurisdictional immunity, has not occurred as of this time, nor has such even been accredited to have taken place in the amparo trial.

This prior point is set forth since, while the Justice Department of the United State of America concluded that the Aggrieved Third Party enjoys diplomatic immunity, it is true that it is up to the District Court of Connecticut the determination as to whether to archive or dismiss the complainant-s lawsuit on the basis of the aforementioned jurisdictional privilege

[bar code] 26

Requested by the responsible ambassador, in the name of the Mexican government.

In other words, the simple fact that the foreign administrative authority may opine favorably as to the request for immunity in favor of the Aggrieved Third Party is not enough to validly sustain that the effects of the diplomatic note at issue were consummated in an irreparable form; but that the request of the responsible Mexican authority of favoring a an national functionary should receive favor and not be subject to a civil trial filed in the neighboring country.

Therefore, if it's not proven in the record that the Connecticut District Court granted the request of the aforementioned administrative authorities achieving the civil case and terminating the cause on the basis of a judicial impediment, that being the eventual jurisdictional immunity of the Aggrieved Third Party, it is therefore patent that the basis for dismissal or no acceptance at issue is groundless.

Illustrative in this respect to the aforesaid is the theses 1a. XLVIII/2000, set forth by The First Hall of Mexico's Supreme Court of Justice, found in page 237, tome XII, December 2000, of the Weekly Judicial Reporter of the Federation, and its Gazette, in its ninth epoch, which header and text are the following:

COMPLETED ACT BEYOND REPAIR. It constitutes the precautionary attachment order contained in a visitation order. Article 73, section IX, of the Amparo Law provides that the amparo is inadmissible against them beyond repair accomplished acts, understood as being those in which having been issued or executed, it is physically impossible to restore to the plaintiff in the enjoyment of individual security violated the constitutional protection granted, as required by Article 80 of that order, as being outside the scope of the legal instruments return things to state prior to the rape. Under these conditions,

it is incorrect to say that the precautionary attachment order contained in an order visit a completed act beyond repair, because it is feasible granted under such restitution to the complainant, thus annulling the said order, and if been executed, returning the goods to the embargo, which would be offset the sustained affectation.

The foregoing is borne out the fact that the very same evidence tendered by the responsible authorities of the Secretariat for Foreign Relations (pages 555 to 578) in fact show that the acts take buy the Department of Estate of the United States and the Justice Department of the United t States are only to "suggest" to the District Court for the State of Connecticut to archive the civil trial filed against the aggrieved third party, with the final decision being left to the particular court in appropriate order of law, meaning, to grant or not the "suggestion" of the aforementioned administrative units, this being a singularly relent point if one considers that the grounds for dismissal or non-acceptance should be wholly established , keeping in mind that in the law of amparo there's a presumption towards the validity of the trial.

The above finds support in the jurisprudence set forth by The Second of the High Tribunal, found in the Judicial Weekly of the Federation, Seventh Epoch, volume 84, third part, page 35, which reads as follows:

IRRELEVANCE OF AMPARO. Fully tested and should not rely on assumptions. The grounds for inadmissibility in constitutional adjudication must be fully demonstrated and not based on assumptions inferred.

Indeed, the very same records sent by the responsible chancellery prove that the aforementioned Federal Court

[bar code] 28

Has not granted the suggestion of immunity as to jurisdiction in favor of the aggrieved third party, hence, the main purpose of the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States.

It's worth pointing out that the will of the foreign jurisdictional organ is not subordinate in any way to the administrative suggestion seeking immunity at issue, this is, the fact that a formal request of that nature was presented by the responsible ambassador in favor of the aggrieved third party, and that the Estate Department of the United states of American communicated that protective measure to the Judge in the civil case does not mandatorily mean that this judge will decide to end the trial on the basis of the extraordinary exception before him, since he cannot be prevented from disagreeing with the authority that filed the suggestion, as that would be an affront to judicial independence.

The foregoing thus makes clear that the procedure to obtain jurisdictional immunity is somewhat complex, insofar it does not function immediately, that is, that only with the act of asking, but that the protection must be requested, through the appropriate diplomatic channels, so that the authorities in the estate where the case is pending be the ones to suggest the immunity and communicate to the judge and so notify him of the same. This shows the existence of at least three acts: a) the request for immunity, b) its presentation to the Judge hearing the case so that he may make the proper determination as to its validity, and c) the decision to grant it or not.

As can be easily noted, the last two acts belong to the authorities of the country in which the lawsuit is intended to be heard, in this case, the United States of America; while the original act, that is, the request for

Immunity corresponds to the Mexican authorities, an act which now garners great importance if one considers that it represents the entirety of the participation of the Mexican Estate in that complex process; hence, this does not entail a simple recommendation or suggestion, as even though the origin of the request can be finally determined by the trier that is reviewing the case independently, it cannot be overlooked that the request by itself constitutes the fundamental expression of the will of the Estate that suggest the immunity.

This last consideration is that which distinguishes the case at hand with other similar cases that fall exclusively under the domestic forum, such as extraditions, where the Federal trier formulates an opinion that does not represent the final resolution of the claim, since it lack enforceability and the rule of law, since the final decision as to the validity of the extradition comes from the Ministry of Foreign Affairs, or, also, in those cases where an administrative authority issues its opinion in respect to the granting of a permit or franchise, but without any link to that person who makes the eventual decision for or against; thus, by virtue of the fact that the petition for immunity does constitute the last act of the Mexican Estate, hence is important to analyze it constitutionally.

Moreover, it-s appropriate to highlight that the fact that the aforementioned foreign administrative authorities have pronounced themselves in relation to the request for immunity at issue, communicating to the Federal Court hearing the matter a suggestion to dismiss the complainant-s lawsuit, does not itself present any impediment whatsoever to the complainants in questioning the actions of the Mexican chancellery where the same, as alleged by the complainants, unduly favors a

private individual whom they believe should be equal under the law.

This is so since the simple fact that the foreign authorities accept the request for immunity from the ambassador responsible, is does not translate into the irreversibility of the acts of the Mexican chancery, and even less that these would escape constitutional scrutiny, under the fallacious argument that its acts are irrevocably consummated upon its mere communication with their foreign counterparts, in light of the fact in our country such acts enjoy definitiveness nationally, and are not irrevocably consummated since the organs for the Federal Judiciary, being guarantors of the human rights as consecrated in the Political Constitution of the United States of Mexico and in the international instruments to which the Mexican State is a party, is entitled to examine any act issued by the national authorities, including those issued by the functionaries of the Ministry of Foreign Affairs.

All acts by a public authority, including those of a discretionary nature, have unbreachable limits, one of them being the respect of human rights, hence the importance that acts by an authority be regulated, but more importantly, that it may be examined by the jurisdictional bodies that were specifically created for that purpose.

To consider the contrary would imply to recognize the existence of an entity within the Federal Public Administration whose acts could not be subjected to revision, not even by the Judicial Power of the Federation, a situation that aside from favoring arbitrariness without measure, is unthinkable in a constitutional democracy such as exists in our country, where the acts of other Powers of the Union can be subject to constitutional scrutiny.

It's relevant for its content and breadth, the criteria set forth by the Auxiliary Chamber of the prior Nation-s Supreme Court of Justice, found in page 98, Volume 205-216, Seventh Part of the Weekly Judicial Reporter of the Federation, Seventh Epoch, which states the following:

AGRICULTURAL. PRESIDENTIAL RUNNING RESOLUTIONS. NOT FINISHED SO ACT IRREPARABLE. The execution of the presidential agrarian configure a completed act beyond repair, given that, although Article 51 of the Federal Agrarian Reform Law provides that after the publication of the presidential in the Official Journal of the ejido Federation owns the land and property that identifies it, and that its execution is granted the holder or character confirms it if you enjoyed a temporary possession, does not imply the irrelevance of amparo, warning that his object against such acts, is to restore to the plaintiff in the enjoyment of the guarantees that have been violated, returning things to the state they were in before the violation, in compliance to the Article 80 of the Law of Amparo.

It is also applicable for the same reason the thesis P.XXIV/2008, of the Nation's Supreme Court of Justice meeting in plenary session, as found in the Weekly Judicial Reporter of the Federation, and its Gazette, Tome XXVII, February 2008, ninth epoch, in page 12, which reads :

CONDEMNATION. NOT A FINISHED SO ACT IRREPARABLE. The cause of the amparo inadmissible under section IX of Article 73 of the Amparo Law concerning "acts accomplished in a irreparable" refers to those whose effects were completely made without legal or factual possibility of returning the things to their previous state, so that violations occur when wronged cannot be repaired through injunction, which does not happen in the case of an expropriation, because even though the authorities may come into possession of the property, the acts continue to

produce effects that may disappear, returning things to the state in which they were.

Moreover, it is important to mention that the argument presented by the responsible authority and the State-s representative is ineffective, that of the fact that the act in question is a fait accomplish in an irreparable form and that the relief that can be provided through an Amparo cannot be achieved if it was granted, under articles 73, fraction IX and 80 of the law of Amparo, taking under consideration that the act of the Estate Department of the United States - joined by the acting prosecutor of the Department of Justice of that nation - is based on the diplomatic note 07654, of November four of two thousand eleven, issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in that nation, since if the constitutional protection was granted the effect of that issuance would be destroyed.

IN other words, the possible granting of the amparo would translate into the withdrawal of the diplomatic note as issue, withdrawing its effects until the moment of its delivery, this is, being a positive act under article 80 of the law of amparo, the eventual constitutional protection would invalidate the its actual delivery (positive act), as well as its natural and judicial consequences that it produced.

Indeed, article 80 of the law of amparo states as follows:

ARTICLE 80. The judgment granting protection will aim to restore the injured party full enjoyment of individual security breached, restoring things to the state prior to the rape, when the act in question is a positive one, and when it is negative, the effect of the force is under the authority to work in the sense of respect the guarantee in question and meet, for their part, which required the same warranty.

From the foregoing it can be noted that when the act in question is of a positive character, the amparo judgment shall have as its end to restore the aggrieved party to the full enjoyment of the constitutional guarantee that was violated, putting back the things to the way they were prior to the violation.

AS such, the assertion by responsible authority and the State-s representative is unfounded that with the mere delivery of the diplomatic note at issue its effect was irreparably completed and that the possible constitutional relief would not have any practical effect; since, as previous explained, the diplomatic note 07654, of November four of two thousand eleven, issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in the United States is a positive act, setting things back to the state kept before the delivery of that note is it is logically and judicially logical translated in its withdrawal, with the consequences that this implies - that of not having presented the note at issue to the different foreign bodies.

Moreover, where the aforementioned assertions from the authorities to be true it would lead to the absurdity that any juridical act would have be a completed act, an unacceptable conclusion in a state governed by the rule of law, since it would imply that no act could be subject to review due to the fact that with its mere issuance it would be irremediably consummated.

In any case, it is worth repeating that the procedure relating to the request for immunity works itself through several phases, since it has its genesis in a request drafted by a national authority, but once presented to a foreign authority, the Mexican state does not act again, but rather awaits the decision of the judge hearing the case; hence, the fact that the diplomatic note has been delivered does not represent a hindrance to undertaking its analysis

[bar code] 34

since its constitutionality can be analyzed and, if it's violative of any human right, adjudge its unconstitutionality, same which has to be communicated to foreign authorities so they can determine the correct path to follow as per their own legal order, taking under consideration the lack of legal foundation of the immunity petition.

This is so since the immunity petition does not derive from a petition or request made by a private individual, the restitution of the constitutional guarantee of the complainants is achieved with the mere insubstantiation of the act at issue, as set forth in this criteria of the eight epoch

JUDGMENT. AN ACT REGARDING ADMINISTRATIVE ISSUES SO THAT SELF, IF GRANTED UNDER THE BASIS FOR NON-COMPLIANCE AND MOTIVATION FOR, JUST LEAVE WITHOUT EFFECTS. According to the stipulations of Article 80 of the Law of Amparo, when the act in question is a positive one, the effects of the decision granting constitutional protection are to restore the injured party full enjoyment of individual security breached, restoring things to the state prior to the rape occurred. Consequently, if the protection is granted in the absence of justification and motivation of an administrative order is issued autonomously, i.e. without regard to any management for compliance enough that this act vacate, as such was the state that kept things before the clarified committing a constitutional violation.

Furthermore, it should be noted that the grounds for dismissal propounded by the responsible authorities and the previously mentioned public prosecutor, which consist of the hypothesis set forth in article 73, fraction IX, of the law of amparo

Concerns material impossibility and not judicial, that being, as explained in the prior paragraphs, the effects of the diplomatic at issue have not come to being, alongside the fact that if the amparo was granted it would destroy its consequences and would obligate the responsible ambassador to withdraw that missive, there being no legal impediment to accomplish that end.

In support of the determinations herein adopted, where applicable, the jurisprudence set forth by the Second Chamber of Mexico's Supreme Court, appearing in page 163, Volume 18, third part, of the Weekly Judicial Reporter of the Federation, Seventh Epoch, which states:

AGRICULTURAL. EJIDOS RESOLUTION OF PRESIDENTIAL DOTATORIA. PERFORMANCE. NOT IMPLY AN ACT SO FINISHED IRREPARABLE. The fact that it has carried out the presidential order execution does not imply relative irrelevance of amparo against this injunction sought presidential and implementation, although Article 130 of the Land Code provides that "based on the diligence of possession final is the population center owner and holder, with the limitations and conditions as this code sets, lands and waters under the presidential order was delivered ", since the granting of the injunction against such acts should bring results in the return to the complainant the enjoyment of warranty raped, returning things to the state they were in before the violation, as provided in Article 80 of the Law of Amparo.

One these same basis, the grounds for dismissal of the cause found in article 74, fraction XVII of the law of amparo are also not founded herein , where it states:

[bar code\ 36

37 738

As to this ground for dismissal, among other theseis that have limited its reach, the following are of note:

DISMISSAL FOR BEING CLAIMED THE MATTER OF THE ACT IS NOT EXISTING ANY MORE. If granted the injunction against the resolution which declared heir to a person, and this, based precisely in its capacity as heir, claimed the division of a house must be held that the purpose of the granting of such leave under stretch without matter mentioned division's judgment, and therefore, if this is claimed under judgment in that trial, it takes the ground of inadmissibility under Article XVII fraction 73 of the Regulatory Law of Constitutional Articles 103 and 107 because even subsisting the act in question, can have no legal effect, having ceased to exist in the same matter. 2nd Thesis. XLVIII/98 of the Second Chamber. Judicial Weekly of the Federation and its Gazette, Ninth Period, volume VII, page 241, April 1998.

CESSATION OF EFFECTS OF ACT CLAIMED and invalidation OBJECT OR SUBJECT. THE DISTINCTION BETWEEN THESE REASONS FOR JUDGMENT OF AMPARO UNSUITABILITY LIES IN THE FIRST INTERVENTION REQUIRED OF AUTHORITY. It is feasible to distinguish the cause of inadmissibility of the amparo suit under section XVI of Article 73 of the Law of Amparo, consisting in the cessation of the effects of the act, of the established in item XVII of legal device, which involves non subsistent object or subject of the act. The distinction is that the former requires the activity or participation in the authority, which is the only one who can stop the effects of an authoritarian act, while updating the second, although part of the subsistence of the act, requires that present the impossibility of its effects by engaging in or continuing longer exist fully the object or subject of the act, which can happen for reasons beyond the control of the authority(ninth epoch, Second Chamber, Judicial Weekly of the Federation and its Gazette, Tome VII, April of 1998, Thesis 2a. XLVIII/98, page 241).

37 [bar code]

Now, in order to define the reach of the grounds for dismissal above cited, it should be kept in mind that, generally, the issuance of a definable act on the part of the an authority carries with it the recognition or establishment of a new judicial situation, distinguishable due to the fact that carries with it certain material and judicial effects which need of effect, to some measure, upon the judicial sphere of the governed and which gives him the legitimate grounds to seek an amparo trial seeking a judgment that would render the act at issue invalid, deeming it violative of the fundamental rights set forth in the Political Constitution of the United States of Mexico.

Consequently, as the amparo trial is a means of control of the constitutionality, the object of which is to redress the violations of constitutional guarantees that a defined act taken by an authority generates unto the judicial sphere of a governed who seeks redress through it, having as its end the restitution of the full enjoyment of those prerogatives that may have been violated, the legislature has established, and the jurisprudence from the High Court has interpreted, diverse conditions precedent to the guarantee trial, which make it a condition that the judgment granting relief that could be granted can be implemented and transcend into the judicial sphere of the person that obtains the constitutional protection.

Among the grounds for dismissal in the amparo trial that derived from this principle is the one that appears in fraction XVII of article 73 of the law of amparo, in which the legislature took under account that sometimes, even though in the judicial world a questioned act from an authority exists, and due to some change in the circumstances in which it was issued, where the act to be adjudged unconstitutional, but judicially it would be impossible to obtain restitution of the full enjoyment of the guarantees deemed violated or that the judgment would be yield no judicial effect, be it because

39 739

Privilege that was affected by the authority was only temporarily a part of his judicial sphere, because the judicial situation that was the source of the prerogative at issue had changed in a way that left no mark in the sphere of the governed, susceptible to reparation, or for any other reason that judicially would impede that the effect of the act in question have effect in the judicial sphere of the person seeking redress.

In that context, it is important to keep in mind that the end or purpose of the responsible authority is still in existence since the case has not been dismissed or archived due in the lawsuit filed by the petitioners in the District Court of the State of Connecticut, and the redress of the eventual violation consists in the withdrawal of the diplomatic note at issue, nullifying its delivery independent of where it caused its effects.

The Jurisprudence 2a./J. 81/2006 set forth by the Second Chamber of Mexico's Supreme Court, appearing in page 189 Tome XXIV, December 2006, of the Weekly Judicial Reporter of the Federation, and its Gazette, ninth epoch, which header and text read as follows support this position

ACT REMAINS CLAIMED TO FORMALLY BUT LET SUBJECT WHOSE PURPOSE OR ANY. THE CAUSE OF STATED UNSUITABILITY XVII FRACTION OF ARTICLE 73 OF THE LAW IS UPDATED WHEN UNDER THE EFFECTS OF HIM NOT AFFECTING THE LEGAL FIELD OF COMPLAINANT AND AMENDING THE ENVIRONMENT IN WHICH WAS ISSUED, SO THAT PROTECTION YOU would lack EFFECTS be granted. Under the amparo is a means of constitutional control aimed redress violations of guarantees that a particular act of authority generated on the legal rights of the governed to

38 [bar code]

promote him, to make restitution in the full enjoyment of their fundamental rights that have been violated, the ordinary legislature has established the principle that governs its origin the fact that the decision in your case protector airing cometh to materialize and transcend the legal rights of the citizen who has promoted. In that vein, it must be held that the cause of inadmissibility under Article 73, Section XVII, of the Law of Amparo, which will take place under the subsisting legal consequence when the act in question cannot take effect any material legal or for leaving to exist the object or matter therein, is updated when the trier of guarantees note that the effects of the challenged official act have not materialized in the legal field of the complainant, nor will materialize, under changing the environment in which it was issued, so that if it concluded that it is unconstitutional, legally it would be impossible to restore to the plaintiff in the enjoyment of warranty deemed raped or have any legal effect concesoria the respective decision, which usually happens when the legal situation that arose as a result of the respective act of authority, even if it exists, is modified without leaving some mark on the legal rights of the governed, capable of repair, which prevents that very act and its effects transcend the latter and that, therefore, failure to achieve its purpose protector.

Thus, as explained before, the statement made by the responsible authority and the Public Prosecutor for the Federation is inexact, in the sense that the diplomatic note at issue has produced all of its material and judicial effects; since it is possible to reinstate the complainant-s whole enjoyment of the aggrieved fundamental rights, understanding that the effects of the amparo are to nullify the acts found unconstitutional, and reparatory of the injured rights, being able to obligate the authority to act in a positive matter and restore the movants in the enjoyment of the fundamental rights, ordering the responsible chancery to withdraw

41 743

Insofar it's concerned the missive at issue and do all other corresponding acts in order to notify of its withdrawal.

Thus, contrariwise to what has been argued by the responsible ambassador and the Agent for the Public Prosecutor-s office of the Federation with proper jurisdiction in this Court, the possible judgment would have practical effect as far as it is possible to put things back in the state they were prior to the alleged human rights violation, by virtue of the fact that with the withdrawal (antonym of delivery) of the diplomatic note the injury at issue is repaired.

Then, the eventual withdrawal of the note at issue constitutes the reestablishing of the situation to the condition it help prior to its presentation, that is, as if it had never been tendered to the North America authorities in favor of the Aggrieved Third Party, a circumstance which would allow the Court of the State of Connecticut to decide on the matter in regards of the civil action filed by the complainants, without considering in any way the petition at issue.

On a different note, it should be further commented that the position of the authorities of the Estate Department and Justice Department of the United States in respect to the jurisdiction immunity of the Aggrieved Third Party does not have autonomy nor is it a declaration in the abstract, and much less is it independent of itself, but it obeys the express request of the Ambassador Extraordinary and Plenipotentiary of Mexico in that nation, contained in diplomatic note 07654, of the fourth of November of two thousand eleven; thus if the document was withdrawn all the effects that could come from it would be destroyed, without regard to the fact that some of those effects could take place abroad, since that circumstance is not grounds for negation of the trial of amparo

41 [bar code]

Taking into account that there exist several acts that are subject to constitutional scrutiny and their effect is felt abroad, such as international treaties, international extradition, deportation, expedition, denial or revocation of passports, divorces, international adoption, diplomatic notes requesting provisional detentions or letters of rogatory, etc-

In order to clarify this last point, the case of deportation is a convenient example, an act by virtue of which the leader of the executive power expels from the national territory that foreigner whose stay he adjudges inconvenient, in accordance with article 33 of the Political Constitution of the United States of Mexico.

In that regard, it should be noted that the fact that the act was executed, and thereby a persona was sent abroad, would not imply that such act would escape constitutional analysis, since it is not enough that the claimed act be completed to give grounds to inadmissibility, but it is required that said completion be irreparable, this is, physically impossible to put things back the way they were before the violation, which does not happen in the case where the amparo judgment is granted as against a deportation, since the affected party would be in a judicially viable position of returning to the national territory, with which the aggrieved party would be restore to the full enjoyment of the constitutional guarantee that was violated, and hence the pressing need to subject to constitutional scrutiny this type of decisions.

The thesis I.2o.P.1 K, found in page 518, tome II, October 1995, Weekly Judicial Reporter of the Federation, and its Gazette, in its ninth epoch, which header and text read as follows is illustrative of this point:

DEPORTATION. IT IS ILLEGAL TO DISPOSE OF A CLAIM UNDER PLANE WHEN IS CLAIMED. It is wrong to dismiss out of hand a claim of indirect jurisdiction where the act is demanded the deportation of the

[bar code] 42

plaintiff, on the grounds that the act is consummated irreparably and, therefore, we are in presence of a clear reason for inadmissibility under Articles 73 Section IX and 145 of the Law of Amparo. First, even if the latter clause provides that if the district judge, in considering the application, I'll find a reason manifest and undoubted inappropriate, dismiss outright, without suspending the act in question, that power is not unlimited and depends on the subjective judgment of the judge, it is necessary that such causal fully proven and not simply inferred through the narration of facts that guarantees does the petitioner in its application. Second, it is not enough that the act in question is consumed for it to take inappropriate, but requires that such a consummation is irreparable, for the completed act beyond repair is one in which it is physically impossible to return things to their state before the rape, which does not happen if the relief requested is granted against deportation, as the complainant would be in the legal possibility of returning to the country, thus would be restored in its individual guarantee raped. Especially not claim a deportation order, but the deportation itself, understood as an attack on the guarantee of personal freedom that is not yet definitively consummated, by suffering, who suffers, from moment to moment, that is, an act of instantaneous realization but effects that extend over time, i.e., successive and therefore against it proceeds the indirect amparo.

An analogous case is that of the diplomatic notes through which a request is made for the temporary detention of a person, as these are acts originating from the center of the executive power but that are also subject to constitutional scrutiny, being that these acts need to abide by defined principles set forth by international treaties so that they be considered obligatory in the proceedings at issue, knowing that failure to satisfy the requirements would render the same invalid.

The criteria set forth by the Third Chamber of the of the prior assembly of the Nation’s Supreme Court of Justice, found in page 1763 of the Weekly Judicial Reporter

of the Federation, Fifth epoch which header and text read:

EMBARGO, NOT A FINISHED SO ACT IRREPARABLE. Although the embargo has been carried out and recorded in the log, not be regarded as a consummate act irreparably, because if federal protection is granted, things can go back to the state that existed prior to the violations claimed, so no is inadmissible the amparo against a third party promotes strange however the procedure.

For these reasons, the argument and conclusion set forth by the responsible authority and the public prosecutor is ineffective where it argues that the amparo petition does not lay on the basis of no resolution proceeding from a Mexican tribunal would be binding upon foreign authorities, such as the Estate and Justice Departments of the United States of American, in as much as they lose sight of the fact that act in question is the Diplomatic note 07654, of November four of two thousand eleven, issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in that nation (an authority subordinate to the Ministry of Foreign Affairs), but not the acts undertaken by the foreign functionaries.

The foregoing becomes more relevant in as much the act subject to constitutional scrutiny is the previously referred to missive issued by a Mexican authority that belongs to the Ministry of Foreign Affairs, which is itself a dependency and part of the Federal Centralized Public Administration, auxiliary to the Federal Executive branch, as per articles 76, fractions I and II, 80, 89, fractions II, III and X, and 90 of the Political Constitution of the United States of Mexico, 1o, 2, fraction I, 10, 14,26, and 28, fraction IIm of the Organic Law for Federal Public Administration , 1o, 1o Bix, 2o, 3o, 4o, 10, 19 and 20, of the Mexican Foreign Service Law, 1o, 2o, 3o, 4o and

[bar code] 44

5o of the by-laws for the Ministry of Foreign Affairs, 2o,3o, and 16 of the of the by-laws of the Mexican Foreign service law, who would in any event be ordered to comply with any eventual judgment and not the foreign authorities.

Where that not to be the case, it would then become permissible for an authority of the Federal Public Administration to perform acts which, even when violative of human rights, could not be subject to challenge, that being contrary to any democratic constitutional judicial system.

The content of article 2 of the Vienna Convention Governing Diplomatic Relation, published in the Official Daily of the Federation on the twentieth of February of two thousand seventy five shall not go unnoticed, it says

ARTICLE 2.

1. The functions of a diplomatic mission consist mainly of:
a) representing the sending State in the receiving State;
b) protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
c) negotiating with the Government of the receiving State;
d) ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State;
e) promoting friendly relations and develop economic, cultural and scientific relations between the sending State and the receiving State.
Two. Nothing in this Convention shall be construed to prevent the exercise of consular functions by a diplomatic issue.

From the above transcribed it is evident that the functions of the diplomatic representations are, essentially, the protection of the interests of the State that sends them, which makes clear that the legal relationships established by an embassy involved fundamentally high coordination, this is

45 [bar code]

They are the primary point of contact between two governments, and tend to facilitate the resolution of problems and agreements for relevant matters for both countries; which is reinforced with the law set forth governing the Mexican Foreign Service Law, which in its 1o article states the following:

ARTICLE 1. The Mexican Foreign Service is the permanent body of officials, specifically charged with representing the importer abroad and responsible for implementing the foreign policy of Mexico, in accordance with the guiding principles established by the Constitution of the United Mexican States.

However, even though as a general rule the diplomatic representation of our nation, and specifically its ambassador, do not establish with the inhabitants of our country, but only with other states, since that is inherent in its foreign policy function, in the case it issued an act that transcended into the judicial sphere of the complainants, since on the basis of the diplomatic note at issue it is intended that a civil trial pending against the aggrieved third party, a state of affairs which obviously causes an injury in the legal interest of the complaining party, and thusly, cannot escape constitutional scrutiny.

Together with the fact that the responsible chancellor would be tasked with the possible withdrawal of the diplomatic note at issue, since if he presented the document it would fall upon him to withdraw it (not so the foreign authorities), and the eventual judicial effects that it could have on our neighbor nation would be the mere logical and natural consequences that such withdrawal would result, which would not be subject to review by this adjudicatory authority, being that , in any event, it would only supervise, at

its proper time, that the head of the mission at issue officially withdraw the request for diplomatic immunity under review, with the responsibility for the actual processing of the

[bar code] 46

47 743

nullification of the aforesaid petition for jurisdictional privilege falling on the foreign authorities, in conformance with their domestic law. Hence the unsoundness of the arguments posited by the responsible authority and the public prosecutor of the Federation assigned to this District Court.

It is important to note that while the application of law is an act of sovereignty in its issuance of a judgment (not made an issue by the parties), yet the truth is that the possible constitutional protection in any case would require the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - not the foreign authorities - to withdraw the petition for jurisdictional privilege in favor of the Aggrieved Third Party, judicially restoring the state of affairs to that prior to its delivery, being that the logical and natural consequences coming from the withdrawal of that note will not be established by this Court would result, which would not be subject to review by this adjudicatory authority, but its effect would be subject to the regulations established in the foreign law.

In that way, it is required to establish that the jurisprudence 2a./J 171/2007 set forth by the Second Chamber of Mexico's Supreme Court, appearing is inapplicable, its header reading: “ARREST, IF ALREADY EXECUTED, THE AMARO TRIAL FILED AGAINST IT, IS INADMISSIBLE AS IT CONSTITUTES AN IRREPARABLY COMPLETED ACT”, alleged by the ambassador as his first argument in his justified report, because that criteria concerns the irreparable execution of an administrative arrest, something completely different to the issue at hand, and secondly, by virtue of the fact that under the eventual constitutional concession the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America (an authority subordinate to the Ministry of Foreign Affairs), to withdraw the

47 [bar code]

Jurisdictional immunity at issue, putting things back in the state they were prior to the alleged human rights violation, that is, as if the petition for judicial prerogative in favor of the Aggrieved Third Party had never been delivered.

Neither is the jurisprudence P./J/ 90/97, from the Nation's Supreme Court of Justice meeting in plenary session with the header "UNDER THE TRIAL UNSUITABILITY. IF IS WORTH A CAUSAL STUDY INVOLVING THE MERITS," must fail. The grounds for inadmissibility of the amparo must be clear and indisputable, than it follows that if is asserted one that involves an argument is closely related to the business background must be rejected.- alleged by the same responsible authority in his justified report, in as much as per article 80 of the law of amparo, the issuance of the diplomatic note at issue having a positive nature, the possible constitutional reparation would hinder in the judicial annulment of that missive, hence there is no judicial or material impossibility, since restoring the state of affairs to that prior to the delivery of that document, accomplished through the mere judicial withdrawal of the aforementioned petition for immunity, this entailing Ambassador Extraordinary and Plenipotentiary of Mexico in the United States inform that foreign nation of the withdrawal of the petition for jurisdictional immunity in favor of the aggrieved third party.

Hence, the legal means that the restorative effects of any judgment that may be granted in the amparo trial is corroborated by the fact that the restoration to the state of affairs to that was prior to the alleged human rights violation would be easy, with the simple withdrawal of the petition for jurisdictional immunity for the aggrieved third party, given the fact that the process for the granting of that judicial benefit does not have an autonomous existence, nor is it a unilateral decision on the part of those foreign authorities, that may come about through

[bar code] 48

49 744

Spontaneous generation or constitutes a mere volition, or an abstract determination, but rather it is the result or fruit of the petition formulated by the responsible chancellor. In that way, if the motive is destroyed that originated that instance the same fate should follows all subsequent acts that happened, as would be lacking legal grounds.

It is worth noting that the thesis invoked the public prosecutor is even less applicable (pages 500 to 510), given that they are mere isolated criteria issued by collegiate circuit courts that have no precedential value in terms of articles 192 and 193 of the Law of Amparo, and additionally are simply descriptive of the grounds for dismissal provided in article 73, fraction IX, of the applicable law, which have no logical judicial relation with the grounds alleged in the petition.

Together with the fact that contrary to what is argued by the previously mentioned public prosecutor, as above explained, the desired effects on the part of the ambassador in issuance the diplomatic note at issue have not come to pass evidenced by the fact that the District Court of the State of Connecticut has not provisionally nor permanently archived the civil lawsuit brought forth against the aggrieved third party.

Furthermore, if hypothetically the foreign judicial authority were to terminate the civil cause at issue, that would not be sufficient to conclude that the effects from the letter subject to complaint were achieved irreparably, by virtue of the fact that the theoretical archiving could not be delinked from that which caused the abandonment of that private cause of action, and hence if eventually the act that provoked the processes by the foreign authorities is nullified, these would lack a valid cause to support them and there would not be

49 [bar code]

Judicial basis to support that possible dismissal of the civil trial brought forth by the complainants. Hence, the grounds for dismissal alleged by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States and the Public Prosecutor assigned to this District Court are not well founded, as provided in Article 73m fraction IX, in relation with numeral 80, both from the Amparo Law.

On the other hand, the dogmatic assertions made by the Public Prosecutor assigned to this District Court and the aggrieved third party are untenable, in as much there exist various international guidelines dealing with privileges and diplomatic immunities, listing the same and making allusions that motives presented in the diplomatic note are constitutional (pages 508 to 510, 709 to 716), by virtue of the fact that these are issues going to the merits of the matter that cannot be examined when analyzing the soundness of the amparo trial.

Supporting of the consideration above presented, where applicable, is the criteria set for by the Nation-s Supreme Court of Justice meeting in plenary session, found in jurisprudence number 135/2001, published in page 5, tome XV, January 2002, of the Weekly Judicial Reporter of the Federation, and its Gazette, ninth epoch, which header and text are the following:

UNDER THE TRIAL UNSUITABILITY. IF IS WORTH A CAUSAL STUDY INVOLVING THE MERITS, must fail. The grounds for inadmissibility of the amparo must be clear and indisputable, than it follows that if is asserted one that involves an argument is closely related to the business background must be rejected.

Additionally, it should be mentioned that the previously cited manifestation from the Public Federal Prosecutor and from the aggrieved third party are generic, lacking

Any relationship whatsoever with the basis of the amparo trial, and even less do they constitute legal grounds to request jurisdictional immunity of the now aggrieved third party, which due basis and legal motivation that, in any event should have been contained in the very same diplomatic note and not in a different document, such as the response at issue, the justified report from the responsible authority or the argument brief filed by the aggrieved third party.

In various contexts, the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States and the aggrieved third party maintain that the remaining complainants lack legal standing to come before the Federal Judicial Authority seeking security and protection of the justice of the union as against the diplomatic note at issue, which produced its results before different foreign bodies.

To undertake the analysis of the proposed grounds for dismissal it is necessary to identify the constraints suffered by the judicial interests for whom it is necessary, before all, to transcribe Article 73m fraction V of the Law of Amparo which states as follows;

ARTICLE 73. The injunction is inappropriate:

...

V. Against acts that do not affect the legal interests of the plaintiff ...

In connection with the above, its necessary to point out that in accordance with articles 107, fraction I, of the Political Constitution of the United States of México, and 73, fraction V, read in context with numeral 4o, both of the law of amparo, only those person whose judicial interest are injured by the act or law complained of , with the understanding that such injury exists when there is a direct and personal effect to a subjective right

That is protected by some law, and that it finds itself at risk by the act acts in question subject to complaint.

These procedural condition precedent to the amparo trial remained unchanged until the political reform publish the six of June of two thousand eleven, which provisions are applicable to the resolution of this amparo petition, since from the aforesaid amendment, in article 107, fraction I, constitutional, it was recognized that amparo trial could be brought forth by the holder of a right as well as by that person who has an legitimate personal or collective interest, as it reads below:

ARTICLE 107. The controversies mentioned in Article 103 of this Constitution, except those in electoral matters, be subject to the procedures established by the regulatory law, according to the following bases:
I. The amparo shall always be at the request of the aggrieved party, having such a character who claims to be the holder of a right or a legitimate interest individual or collective, always claiming that the act in violation of the rights recognized by the Constitution and thereby affect their legal rights, either directly or by virtue of their special situation facing the legal system.
In the case of acts or decisions from judicial, administrative or work, the plaintiff must adduce hold a legal right to affect personal and direct manner; ...

The reading of the constitutional numeral at issue reveals that the capacity to bring forth an amparo trial as against acts different from those that come from judicial, administrative or labor tribunals, shall exist in two instances, as follows:

When the act directly affects the judicial sphere of the complainant, a sister concept to that has been traditionally held as judicial interest, or

If the act affects the complainant -by virtue of his especial interest before the law- also referred to as legitimate interest, be it individual or collective.

[bar code] 52

53 746

From the foregoing, firstly, one gets that in accordance with the new constitutional text, the possibility of seeking an amparo has been expanded, since not only has it enabled those who are affected in their judicial interests, as before provided, but now it is contemplated that also those people who feel themselves affected in their legitimate interests, as corroborated by the United Commission on Constitutional Points and of the Legislative Studies of the Senate of the Republic, which in its relevant part reads:

"While in the past this kind of relationship between the situation of the people and their access to the process was correct, since it is thought to be highly homogeneous Mexican society when the form of representation of society in our times is when there is political pluralism and social struggle to achieve legal incorporation of a series of social demands, you cannot continue to demand legal interest to attend the injunction. They lead us to conclude that the way to solve the problem of interest to attend the trial has to do with how you envision the possibilities of access to justice. Faced with the dilemma of keeping the system in its current or open new possibilities to challenge proposed to introduce the figure of legitimate interest. It is an institution with a broad development in comparative law and with some background in ours that, precisely, can be as complainant in the shelter to that person affected by an act under, or direct involvement, a right recognized by the legal-legal interest, or where the act of authority does not affect this right but the legal situation of the legal order itself."

Now, these constitutional rule changes have not been reflected in the amparo law which, to this date, continues to set forth as a grounds for dismissal the lack of effect in the judicial interest of the complainant; nevertheless

53 [bar code[

In the face of this contradiction between the Federal Constitution in force and the amparo law, the first should take precedence, since as a result of the superior legal force of the Federal Constitution, its text should prevail over inferior laws since, the contrary would leave fundamental rights in the hands of the ordinary legislator.

To set out the reasoning through which this decision is reached, it is necessary to point out that in the constitutional amendment of June tenth of two thousand eleven, it was established that it was the direct obligation on the part of the national authorities to ensure, within their legal authority, the compliance and protection of the fundamental rights, as follows:

ARTICLE 1. In the United States of Mexico all persons shall enjoy the rights recognized by the Constitution and international treaties to which the Mexican State is a party and the guarantees for their protection, whereby no may be restricted or suspended, except in cases and under the conditions established by this Constitution.

The rules on human rights shall be interpreted in accordance with the Constitution and international treaties favoring stuff all the time to people the broadest protection. All authorities, within the scope of its powers, have the obligation to promote, respect, protect and fulfill human rights in accordance with the principles of universality, interdependence, indivisibility and progressiveness. Consequently, the State must prevent, investigate, punish and remedy human rights violations in the terms established by law.

Slavery is prohibited in the United States of Mexico. Foreign slaves entering the country reach, by this fact alone, freedom and the protection of the laws.

All discrimination motivated by ethnic or national origin, gender, age, disability, social status, health status, religion, opinions,

sexual preference, marital status or any other that violates the dignity human and is intended to nullify or impair the rights and freedoms of individuals.

Likewise, in its ruling while holding court on the fourteenth of July of two thousand eleven on various cases 912/2010, the Nation-s Supreme Court of Justice meeting in plenary session decided, among other issues, that while the Judicial Power of the Federation is the only one authorized to undertake direct constitutional review, it is true that the district courts have authority to render void those acts that are against the Federal Constitution and the Human Rights treaties entered into by the Mexican estate, such as the American Convention of Human Rights, where such authority even grants it the authority to unofficially render void those regulations that are contrary, in this regard it was noted:

23. SEVEN. Conventionality control ex officio a fuzzy control model of constitutionality. Once you have said that the judgments of the Inter-American Court of Human Rights in which the Mexican government has been part obligate the judiciary in its terms, must rule on the provisions of paragraph 339 of the judgment of the Court American that reads:

"339. Regarding judicial practices, the Court has established in its case law that recognizes that judges and courts are subject to the rule of law and, therefore, are required to apply the provisions in the law. But when a State has ratified an international treaty such as the American Convention, its judges, as part of the state apparatus, are also bound to it, forcing them to ensure that the effects of the provisions of the Convention are not affected by the implementation of laws contrary to its object and purpose, which from the beginning have no legal effect. In other words, the judiciary must exercise 'control of conventionality' ex officio between internal standards and the American Convention clearly within their respective powers and corresponding procedural regulations. In this task, the Judiciary must take

55 bar code

into account not only the treaty, but also the interpretation thereof made by the Court, the ultimate interpreter of the American Convention. "

24. The leading now is whether the judiciary should exercise ex officio conventionality control and how this control to be performed, since each state will have to adapt the model of existing constitutional control.

25. In this sense, in the Mexican case presents a peculiar situation, because until now derived from that interpretation, constitutional control has been exercised exclusively by the Federal Judiciary by defense mechanisms, controversies and actions of unconstitutionality. Expressly, these means of control, was added which makes the Electoral Court by constitutional reform of July first, two thousand eight, in the sixth paragraph of Article 99 of the Federal Constitution, giving the option of not applying the laws on the matter contrary to the Constitution. Thus, determination of whether Mexico has operated a system of fuzzy control of constitutionality of laws at some point, did not depend directly from clear constitutional provision but, over time, has resulted in different jurisprudential constructions.

26. In another aspect, the June 10, two thousand eleven was published in the Official Journal of the Federation the reform of Article 1 of the Federal Constitution to be, in the first three paragraphs, as follows: (as transcribed).

27. Thus, all authorities, within the scope of their competence, are obliged to ensure not only human rights contained in international instruments signed by the Mexican state, but also for human rights contained in the Federal Constitution , adopting the interpretation most favorable to the human right in question, what is meant by the doctrine as the pro persona principle.

28. These mandates contained in the new Article 1 of the Constitution, must be read with the provisions of different item 133 of the Federal Constitution to define the framework within which it must be the control of conventionality, which clearly will be different concentrated control traditionally operated in our legal system.

57 743

29. It is in the case of the judicial function, as indicated in the latter part of Article 133 in relation to Article 1 where the judges are bound to prefer the human rights contained in the Constitution and international treaties, even though the provisions otherwise provided by any lower standard. While judges cannot make a general statement on the invalidity of the legal order or expel the standards they consider contrary to the human rights contained in the Constitution and treaties (as happens in direct control pathways expressly provided in Articles 103, 107 and 105 of the Constitution), they are forced to stop applying these lower standards giving preference to the contents of the Constitution and treaties in this area.

30. Thus, the mechanism for the control of compliance ex officio on human rights must be consistent with the general pattern constitutionally established control because control cannot be understood as indicated in the statement that it does not analyze whether part of a general judicial review follows the systematic analysis of Articles 1 and 133 of the Constitution and is part of the essence of the judicial function.

31. The parameter analysis of this type of control to be exercised all judges in the country, is made up as follows:

All human rights contained in the Federal Constitution (on the basis of Articles 1 and 133), and the jurisprudence of the Judicial Power of the Federation.

All human rights contained in international treaties to which the Mexican government is a party.

Binding criteria of the Inter-American Court established in the judgments in which the Mexican government has been part and guiding criteria of jurisprudence and precedents of the said Court, when the Mexican government was not a party.

32. This possibility for derogation by the judges in the country at any time involves the removal or disregard of the presumption of constitutionality of laws, but precisely of this assumption by allowing the contrast to prior to its application.

57 [bar code]

33. Thus, this type of interpretation by judges presupposes three steps:

Interpretation as broadly. This means that the country's judges, like all other authorities of the Mexican state, the legal system must interpret the light and according to the human rights established in the Constitution and international treaties to which Mexico is a party state , all the time encouraging people broader protection.

Interpretation as strictly. This means that when there are multiple interpretations legally valid, judges should, based on the presumption of constitutionality of laws, preferring one that makes the law according to the human rights established in the Constitution and international treaties to which the State Mexico is a party, to avoid influence or undermine the essence of these rights.

Exception to the law when the above alternatives are not possible. This does not affect or break with the logic of the principle of separation of powers and federalism, but strengthens the role of judges to be the last resort to ensure the primacy and enforcement of human rights under the Constitution and treaties international agreements to which the Mexican government is a party.

34. Currently there are two major branches within the constitutional control model in the Mexican legal systems that are consistent with a model of control of compliance in terms listed. First, the concentrated control in the organs of the Judiciary of the Federation to control direct pathways: unconstitutionality, under constitutional controversies and direct and indirect, and second, the control of the rest of the country's judges in incidentally during routine processes in which they are competent, that is, without having to open a file in a separate.

35. Finally, it is worth reiterating that all the authorities of the country in the areas of competence are required to apply the rules more favorable interpretation by the person to achieve their broader protection without having the ability to waive or declare the incompatibility thereof.

36. Both strands of control is carried out independently and the existence of this general model of control does not require that all cases are reviewable

59 749

and challenged both. This system, as we have seen, is concentrated in one part and another diffuse and allows interpretations are constitutional criteria, either by declaration of unconstitutionality or inapplicability, which eventually flow to the Supreme Court to be this that determines what is constitutional interpretation must eventually prevail in the national legal order. Cases may be examples of non-derogating reviewable on direct or concentrated way of control, but this does not make the other side unfeasible general model. During operation causes the same Supreme Court and the Legislator respectively revise the criteria and standards that establish the conditions of origin in the direct way to control specific processes and promptly assess the need for modification (see model below).

In the same vein, the modifications to such concepts of the constitutional control paradigm and convention or rules and norms is corroborated when one considers that the Nation-s Supreme Court of Justice meeting in plenary session, on the basis of a request from its president, decided to interrupt its jurisprudential thesis 73/99 y 74/99 when it considered that **"the judges of the Mexican State when hearing any matter within its jurisdiction shall must promote those human rights recognized in that fundamental law and in the those international treaties to which the Mexican Estate is a part, in spite of those provisions that could be contained in the laws that may need to be applied in order to resolve the matters within the jurisdiction."**

Further, this interpretation was repeated by The First Hall of Mexico-s Supreme Court of Justice in its ruling while holding court on the thirty of November two thousand eleven, the contradiction of theses 259/2011, insisting anew that, thanks to the constitutional reform of the tenth of June of two thousand eleven, it befalls upon all of the jurisdictional authorities to govern their actions pursuant to the recognition and protection of

The fundamental rights recognized by the Federal Constitution in the international treaties signed and ratified by our country, which led to the jurisprudence 18/2012 of The First Hall of Mexico-s Supreme Court of Justice, pending publication, which header and text are as follows:

CONSTITUTIONAL CONTROL AND CONFORMITY WITH THE CONVENTION (CONSTITUTIONAL REFORM OF JUNE 10, 2011). By amendment published in the Official Journal of the Federation on June 10, 2011, amended Section 1 of the Constitution of the United Mexican States, re-designing the way in which the bodies of Mexican judicial system must have control of constitutionality . Prior to the reform aimed, according to the text of Article 103, Section I of the Federal Constitution, it was understood that the only body empowered to exercise judicial review it was the Judiciary of the Federation, through the means provided in that provision, however, under the amended text of Article 1 of the Constitution, there is another type of control, as it was established that all the authorities of the Mexican state have an obligation to respect, protect and fulfill the human rights recognized in the Constitution and international treaties to which Mexico is a party state itself, which also includes the control of compliance. Therefore, it is concluded that in the current Mexican legal system, national courts both federal common order, are entitled to make pronouncements in respect and guarantee human rights recognized by the Federal Constitution and international treaties, with the constraint of national judges in the cases submitted to it than direct airway control under Fundamental Rule may not make a declaration of unconstitutionality of general rules, as only the constituent bodies of the Judiciary of the Federation, acting as constitutional judges may declare unconstitutional a rule fails to comply with the Constitution or international treaties, while other Mexican state judicial authorities may apply the rule only if they feel it is not consistent with the Federal Constitution or international treaties on human rights.

[bar code] 60

61 750

Then, on the basis of these premises, it should be understood that in the basis of the changes to articles 1o y 107, fraction I, of the Political Constitution of the United States of Mexico, the basis for dismissal provided in article 73, fraction V, of the law of amparo, is only applicable now if the complainant fails to establish an effect to his judicial or legitimate interest, since only in that way can the content of that numeral can be harmonized with the new dispositions of the Federal Constitution, as it relates to acts that are different from mere jurisdictional ones.

The possibility of directly applying the new provisions of the Federal Constitution even in the absence of the reform applicable to the amparo law is confirmed by pondering the isolated thesis XXXI/2012, set forth by the First Chamber of the Nation's Supreme Court of Justice, approved during session the twenty second of February of two thousand twelve, in its Tenth Epoch, pending publication I the Judicial Weekly of the Federation, and its Gazette which reads:

DISMISSAL FOR LACK OF PROSECUTION AND CANCELLATION OF THE INSTANCE. CAN NOT decreed in TRIALS OF RESOURCES UNDER OR INITIATED REVIEW PRIOR TO THE ENTRY INTO FORCE OF THE DECREE TO AMEND, REPEAL ADDITIONS AND VARIOUS PROVISIONS OF ARTICLES 94, 103, 104 AND 107 OF THE CONSTITUTION OF THE UNITED MEXICAN STATES, PUBLISHED IN THE OFFICIAL JOURNAL OF THE FEDERATION ON 6 JUNE 2011. In the decree, the Power Reformer section XIV repealed Article 107 of the Political Constitution of the Mexican United States providing for the dismissal of amparo or discontinuance for lack of procedural guarantees at trial and stated in the third article transitional amparo all started before the entry into force of the constitutional reforms set out in the decree, continue until its final resolution in accordance with the provisions in force at the beginning,

61 bar code

except as regards the provisions to dismiss for lack of procedural and discontinuance. Hence there may be decreed the dismissal procedural inactivity amparo or discontinuance in the shelters under review initiated before the entry into force of Decree amending, supplementing and repealing various provisions of the articles 94, 103, 104 and 107 of the Political Constitution of the Mexican United States, however, that Article 74, section V, Amparo Act still provides for the dismissal and revocation for the said cause, and that the nature of this law is to regulate the articles 103 and 107 of the Constitution of the Republic, so that if the fraction 107 that Article XIV of the Constitution has been repealed, the numeral 74, section V, has run out constitutionally mandated regulatory content.

Now, in relation to the first mentioned hypotheses, this being the existence of an injury to the judicial interest, the Nation's Supreme Court has developed at length that cause for dismissal or lack of well-foundedness, noting that the judicial interest must be accredited unequivocally, not be inferred on the basis of assumptions, and in accordance with two elements, this being 1) The existence of an judicially protected interest and 2) a real and direct affect in it, with emphasis that the well-foundedness of the trial is not sufficient that the act on the part of the authority affect the judicial sphere of the complainant, but that the person bringing forth the suit should be the holder of the right injured by the act of the authority; this means, the soundness of the trial of guarantees requires the showing of an judicial interest, which is higher that a legitimate or economic interest.

The second hypothesis as to soundness, that being, the effect on legitimate interests of the individual, has not been the subject of jurisprudential development due to amparo trials since its incorporation is new, nevertheless

Bar code 62

63 751

The Supreme Court of Justice of the Nation has issued pronouncements around the edges of this judicial institution in the matter of adversarial administrative hearings, and such arguments are useful to understand the reach that should be given to the constitutional disposition at issue.

Then when the second chamber of the Supreme Court of justice of the nation issued judgment during the session of the15th of November of 2002 it resolved the contradiction in thesis 69/2002-ss. Where it stated the following having to do with legitimate interest.

Of the above facts far below what is synthesized:
1. In general, the doctrine conceives legitimate interest as an institution through which entitles all persons entitled to the right without being injured by an act of authority, that is not being holders of a subjective right, have, however, an interest in the violation of the right or freedom is repaired. In other words, it implies the recognition of the legitimacy of the governed whose livelihood is not a legal right granted by the regulations, but in a qualified interest in fact may have regarding the legality of certain acts of authority.
The characteristics that identify, are:
If successful, this translates into a benefit in favor of the plaintiff legal.
It is guaranteed for the right purpose, but does not give rise to a legal right.
There must be involvement in the legal sphere of the individual.
The holder has a legitimate interest other than interest and other governed, which is that the acts of public administration falling within the scope of that interest itself right fit.
Is a qualified interest, actual and real, not potential or hypothetical, so he regards as legally relevant interest.
The annulment of authority in the sphere produces legal effects of the governed.
Two. Of the various processes of amendments and additions to the Act repealed the

Administrative Court of the Federal District, and that led to the law in force, that the legislature is ordinary at all times kept in mind the differences

63 [bar code\

between the legal and the legitimate interest, which is even more evident in the discussions relating to the legislative process in 1986 and 1995. In fact, one of the main objectives pursued by the latter, was precisely to allow access to administrative justice to those individuals concerned of their legal rights by administrative acts (legitimate interest), but lacked the respective individual right ownership (interest legal), i.e., increasing the number of ruled they could access the procedure in defense of their interests.

Three. The High Court noted the differences between the legal interest, simple interest and simple option: It is understood that the legal interest corresponds to the subjective right, meaning the ability or power to demand, whose institution the objective standard slogan of the right , and represents the combination of two inseparable elements: a) a power to require and b) a corresponding obligation translated legal duty to comply with that requirement. So that will have legitimacy only one who has a legal interest and not when it has a mere power or authority, or have a simple interest, i.e., when no objective legal standard set for any individual's right to demand.

Thus can be seen clearly enough that it is not possible to equate the two classes of interest-legal and legitimate, because the doctrine, case law and the legislative body that issued the Law and study have estimated, noting that while the legal interest required to be protected by a rule of substantive law, or in other words, requires the involvement of a subjective right, whereas the legitimate interest implies only the existence of a qualified interest regarding the legality of certain acts, interest comes from the effect on the legal rights of the individual, either directly or derived from your particular situation regarding the legal order.

Indeed, the legitimate interest is that they have people who, by the objective situation in which they are, by personal circumstances or be the recipients of a rule, hold an interest, distinct from other individuals and moves that public authorities act in accordance with the law when, during the pursuit of their own general purposes,

65 752

falling within the scope of his own interests, but the action in question did not cause, namely, a benefit or service immediately.
The legitimate interest exists if it can be assumed that the alleged legal statement would place the plaintiff in a position to get a certain benefit, without requiring as to ensure in advance that necessarily has to get it, or that it should be supported by a legal rule express declarative rights. Thus the legitimate interest involvement is credited when the situation actually created or could create the contested act can cause damage, provided it is not indirect but immediate result of the decision rendered or hereafter issued.
That being so easily be seen that for the origin of management judgment in terms of Articles 34 and 72, section V, of the current Law of Administrative Court for the Federal District, enough that the challenged official act affects the legal rights of the plaintiff, to assist him a legitimate interest to demand the annulment of the act, being irrelevant, for this purpose, it is, or not, subjective right holder, as the interest that the plaintiff must prove not the proof on his claim but he attends to initiate action. Indeed, such provisions refer to the appropriateness or inappropriateness of management judgment, to the budgets of admissibility of the action before the Court of Administrative Litigation, as well, which is
confronting those provisions is a question of standing to bring an action, but not the duty of establishing the right actor who alleges that it has, since the latter is a matter for the merits.
This is so because-stresses-the legitimate interest that allude to such precepts is an institution that can be acting in an administrative trial to that person affected by an act of authority when it does not affect a right recognized by the legal order, but the legal situation of the legal order itself, so that the trial before the Court of Administrative Litigation Federal District protects individuals from acts of authority which affect their individual rights, but also , against their legal violations that do not harm legal interests, either directly

65 bar code

or indirectly, due in this case, to the peculiar situation in the legal system.

From the judgment in question one can advert that the legitimate interest that is a condition precedent to the Amparo trial it is that is the one welted by those persons that due to the objective situation which they find themselves due to a personal circumstance or because they are the people affected by a regulation they hold an interest that's unique onto themselves that all other individuals and leaving them in a position in which the public powers when acting in accordance to public law and seeking to pursue their own general goals will trespass onto their own interests even when the - does not cause concretely an immediate benefit.

Then the legitimate interest is of qualified nature and this implies even in light of the constitutional reforms the Amparo law suit is not authorized when the person that brings it forth has a simple interest or a merely economic interest but rather the following set of situation must occur as follows:

- That the judicial situation is guaranteed by an objective law even when it does not give rise to subjective law in other words that the complainant has a judicial situation that is his own and different from other individuals
- That that judicial situation sees itself affected by the active authority.
- That the judicial- annulment of the act of the authority will then produce a benefit to the judicial sphere of the governed person.

Consequently the basis for the Amparo law suit continued to be limited since the basis of the above the addition of the legitimate interests as condition precedent to its filing did not imply that any person without more can commence this method of control.

Constitutional, since its simple economic interest is not sufficient nor the general interests in that the acts of the public administration of the state the legal rather that it is necessary that they satisfy the elements that show existence of the judicial interests or even a legitimate and fundamentally that those identified interests be affected by the act of the authority. Particularly it is necessary to mention that the complainants [BLANK] and [BLANK] state that the diplomatic note 07654 affects them that note being from the 4th of November of 2011 issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States through which the responsible authority solicited jurisdictional immunity in favor of the AGGRIEVED THIRD PARTY with the object that he not be tried civilly in that nation arguing that it deals with the former head of state who enjoys that judicial benefit.

In this frame work it is patent that the aforementioned complainants intend to challenge the petition for immunity formulated by an authority that belongs to the Mexican Foreign Service itself that is dependent unto the secretary of foreign affairs on the principle basis that the issue lacks legal grounds and legal motivation and moreover that the responsible authority failed to credit that the national sovereignty would be affected simply by having the third injured party admit to civil trial abroad.

Based on the foregoing it is simple to notice that the ground for dismissal propounded by the responsible authority and the third prejudice party is unfounded being that contrary to that which was alleged by these parties the complainants [BLANK] and [BLANK] do have a judicial interest to bring forth the Amparo law suit against diplomatic note 0764.

Of the 4th of November 2011 issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States, addressed to the Secretary of Estate of the United States, since the petition for jurisdiction immunity favoring the third injured party with the stated purpose that he not be subjected to civil trial in that nation arguing that he is an ex head of state and that he enjoys the judicial benefit thus affect the judicial fear of the complainants in that a Mexican authority limits the access to justice in order to seek a procedural benefit in favor of the third party so that the civil trial brought forth against the third injured party be terminated.

As further proof to this prior assertion one takes note that the complainants [BLANK] and [BLANK] accredited that they are the actors in civil trial 3;11-CV-01433-AWT currently pending before the district court of Connecticut United States of America in the instance with a certified copy of their birth certificates (pages 32-39), secondly with a certified and apostilled copy of the judicial petition that the claimants seek through which the claimants seek to proceed in an anonymous form and using the pseudonyms in order to keep the confidentiality starting Jane Doe 1 to John Doe 6 in the civil complaint filed against the Aggrieved Third Party together with their translations (pages 395-470). These prior statements reveal that complainants [BLANK] and [BLANK] have shown to be originally of from Acteal, Chenalho, in the state of Chiapas, Mexico where they suffered the loss of their family members in the 22nd day of December 2007 furthermore they provided proof that they filed a civil complaint against the Aggrieved Third Party as complainants and protecting their identities using pseudonyms to preserve their integrity further for that reason they sought the suspension.

BARCODE Page 68

In the docket since they thought that they ran the risk the responsible authorities could disseminate their personal information in order to send it to the United States of America so that in that concept that neighboring country would take actions against them for having brought forth a civil law suit against an ex Mexican president.

Hence from their if complainants [BLANK] and [BLANK] prove their ethnic origin and their quality as indigenous people as well as their logical judicial nexus between their judicial petition of the complainants seeking permission to proceed in anonymous form showing that their personal information does correspond to what is presented as Jane Doe 1 thru John Doe 6 and that the civil complaint filed before the Federal Court of the State of Connecticut 3:11-cv-01433-awt it is clear that they accredited their judicial interest since in diplomatic note 07654 of November 4th of 2011 a Mexican authority - the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States a dependent of the Mexican Secretary of foreign relations requested that that trial concluded in their request was in the following manner:

On behalf of my Government, I have the honor of referring to the case of Doe et al v. Zedillo Ponce de Leon, filed in the Federal District Court for the District of Connecticut, under number 3:11-cv-01433, instituted against the Ex-President of Mexico, Ernesto Zedillo Ponce de Leon.

...

By virtue of the foregoing, I respectfully request the intervention of the Department of State, through the Department of Justice, before the Federal District Court for the District of Connecticut, by way of a suggestion of immunity regarding the Ex-President of Mexico.

Thanking Your Excellency in advance for your valuable support in obtaining the intervention of the Department of State in the preceding case, I take advantage of this opportunity to reassure you of my highest and distinguished consideration.

This prior transcription makes it clear that the Mexican authorities does reach out and affect the judicial fear of the aforementioned complainants in that when it requested the intervention of the foreign authorities so that the civil trial brought forth by their icon - nationals that is being the previously identified case with docket number 3:11-cp-01433-awt currently pending before the district court of the State of Connecticut in the United States of America and in favor of their opponent in between (defendant now third agreed party) hence the cost for dismissals envisaging in fraction V of Article 73 of the law Amparo does not lie.

It is important to note that the diplomatic note at issue does not limit itself to a mere suggestion of jurisdictional immunity in favor of the AGGRIEVED THIRD PARTY but that it constitutes the materialization and externalization of the posture of the Mexican government in that it requests the cessation of civil action brought forth by the complainants abroad as against the AGGRIEVED THIRD PARTY thus acquiring definitiveness within our judicial national system which without any doubt causes an evident injury to this judicial fear of the prior or previous.

This is so because the request for immunity is a decision that was issued in an autonomous matter with the only intention of bringing an end the civil law suit brought forth by the complainant in the district court in the State of Connecticut which is and constitutes a definitive act in so far it summarizes the will of the state of Mexico that an ex federal functionary not be subjected to trial and that having being expressed to the foreign government it fulfilled its purpose for which it was issued that being the civil action filed by the now here complainants against the third agreed party. Meaning

BARCODE

Once the diplomatic note was turned over to the foreign diplomatic authority it accomplished its original goal and therefore it turned itself into a definitive act since it defines this country's posture insofar the civil trial brought forth against that person, who at some time held the honorable Office of the President of the Republic.

In other words, the intention of the responsible authority was completed with the simple issuance of the international missive at issued, since it puts in objective terms that the termination of the responsible diplomat causing a real and palpable effect unto the complainants since the administrative officer, in the name of the federal government, commenced the process to materialize his purpose in terminating a civil trial filed abroad which he believes could injure the interests of Mexico in the neighboring country.

Contrary as to what the AGGRIEVED THIRD PARTY affirms in his argument brief (Pages 709-716) that the diplomatic note at issue does obligate and bind the foreign authorities to put into motion or take all required steps in their country so as to take care of the request from the Mexican Chancellor responsible, insofar, bring into an end the civil action filed against the AGGRIEVED THIRD PARTY since otherwise North American functionaries would not have presented the necessary filing so as to achieve the archiving of the private lawsuit filed before the federal Court of Connecticut in the United States of America.

Moreover, the formalities and procedures that have taken place in that country do not enjoy of complete autonomy and much less of independence being that they are in response to the petition for jurisdictional immunity that was commenced by the responsible Ambassador confirming the degree of injuries suffered by the complainants in that they will have to withstand or suffer the extension of a civil action but

Page 71

BARCODE

as a consequence of the act taken by the administrative authority that belongs to the Mexican Foreign Service.

In light of that line of thinking the Jurisprudence I.40.A.356. A, is inapplicable as presented by the Fourth Collegiate Tribunal and Administrative Matters of the First Circuit "legitimate interest. Its connection with D Regulations," relied upon by the responsible authorities in their justified report (page 267) since the complainants not only have a legitimate interest but also a judicial interest, as it was proven in prior paragraphs more when the content of the cited criteria makes manifest that the complainants herein have additionally a qualified and actual and real interest since there exists a violation on the part of an authority that belongs to the Federal Centralized Public Administration at issue that is an entity in permanent representation of the Mexican Foreign Service (Ambassador) dependent upon the Mexican Secretary of Foreign Relations as to what is set forth in the regulations in direct and specific connection with the interests of the people bringing forth the amparo.

The is applicable to the thesis set for by the then auxiliary Chambers of the Supreme Court of the nation with the header "Judicial Interests, Lack Thereof," alleged by the responsible authority in his justified report (Pages 260-269) by virtue that it deals with a mere criteria isolated and not legally binding in accordance with Articles 192 and 193 of the Law of Amparo since in that thesis the grounds for the Constitutional trial where not examined as against a diplomatic note that resulted in the termination of a civil trial in favor of different individuals.

On the other hand, it should be noted that even when some of the effects of the diplomatic note at issue could have some shades of extraterritoriality it is like was true the body that issued the acting controversy belongs to

Page 72

BARCODE

of the Federal Public Centralized Administration of our country. Therefore its acts do not escape the constitutional control set forth in the Magna Carta[1] nor, is it a pretext so that its acts not be revisable by the judicial powers of the Federation set forth in the recent Constitutional Reforms published by the 6th and 10th of June, 2011 in the official diary of the Federation, is not only the guarantor of the human rights consecrated in the political Constitution of the United States of Mexico but as well as in the International Treaties that grant any benefit to the individual.

to this the consideration previously set forth it is illustrative for its content and reach the thesis sustained by this Second Chamber of the prior integration of the Supreme Court of Justice of the national as found on Page 61, Fifth Volume XCVIII, Third Part of the Judicial weekly of the Federation Sixth Epoch, the header and text of which are as follows:

INTERNATIONAL TREATIES, AMPARO AGAINST THE APPLICATION OF. No need to rule on the injunction for the cause of invalidity established by section XVIII of Article 73 of the Law of Amparo, in relation to Article 133 of the Constitution of the Republic, for although international treaties concluded by the President with Senate approval, who agree with the Constitution, are, along with this and with the laws of Congress, emanating from it, the supreme law of the Union or the precept Constitution contained in Article 133 nor other Constitution itself or the Law of Amparo, proscribing trial safeguards against improper application of a treaty, as it is clear that the acts that perform administrative authorities to complete international treaties , must be properly grounded and motivated and originate in a procedure in which the formalities are filled pointing the Constitution, for a different attitude openly conflict with Article 14 of that Constitution. Under these conditions, if the injunction

[1] The Political Constitution of Mexico

73 BAR CODE

is the means of controlling the legality of acts of authority, must be upheld even if it is from the application of an international treaty, and that otherwise would be left defenseless the individual concerned.

To take the opposite position would be the equivalent of exempting from the due compliance of the most elemental guarantees of legality to acts committed by national authorities that could have effects abroad, under that mistaken argument such as is the case involving an international extradition an institution which is revisable at the national level even though its consequences take place abroad in the requiring state.

The reasoning set forth acquire more strength if one reviews the context in which the act being claimed is brought forth in that were it to be that the foreign authorities to grant immunity requested through the diplomatic note at issue it will be on the basis of the content and reach of the request in strict adherence to the principal of international reciprocity but they would not examine if it is in accordance or if it meets the Constitutional minimal requirements hence it must be Mexico the only place where that act can be subject to scrutiny under that light since that not being the case that act would have no control and be subject to no control any logical result in a constitutional democracy being that it would recognize implicitly that an authority of the Mexican Foreign Service would have the power to issue, out of its own abolitions acts that cannot be controverter even when these are extraordinary.

A similar situation happens in the field of international treaties, which obviously and evidently have consequences and judicial effects abroad but, that mere fact does not Result in the lack of jurisdiction for the amparo trial where it to be brought against it since all to the contrary Article 114, Fraction I, of the Amparo Law expressly provides that

Page 74

BARCODE

75

757

for the basis of constitutional lawsuits against such international instruments even when indivisibly they would have a judicial determination will have an effect relative to a third party state that is a signor to that treaty as can be seen in the following transcription of the law:

ARTICLE 114. The defense is prompted before the District Judge: I. Against federal or local laws, international treaties, regulations issued by the President in accordance with Section I of Article 89 of the Constitution, local laws regulations issued by the Governors of the States, or other regulations, decrees or agreements of a general , which by their very entry into force or on the occasion of the first act of application, cause injury to the plaintiff.

In that sense, even though Diplomatic Note 07654 of the Fourth of the member of 2011could have consequences or effects in the United States of America, this must not translate into the lack of judicial interest in the part of the complainants or in the groundlessness of the amparo trial since firstly, the diplomatic incisive at issue constitutes the claimed act and not whatever acts follow by foreign authorities and secondly, the controverted act was issued by a Mexican authority and not a foreign authority this being THE Ambassador Extraordinary and Plenipotentiary of Mexico in that nation was a functionary that belongs to the Secretary of Foreign Relations of the federal government as he himself recognizes expressively in his Justified Report to the level that he cites the Mexican Law of Foreign Service (Articles 1, 2-bis fractions IXNXIII, 2, fractions INIII, and 41) that show clearly that it is a Mexican authority dependent upon the centralized federal public administration as it can be seen in the following

ARTICLE 1. The Mexican Foreign Service is the permanent body of officials, specifically charged with representing the importer abroad and

responsible for implementing the foreign policy of Mexico, in accordance with the guiding principles established by the Constitution of the United Mexican States. The Foreign Service is dependent on the Federal Executive. His leadership and management are handled by the Ministry of Foreign Affairs, hereinafter referred to as the Secretary, in accordance with the provisions of the Organic Law of Federal Public Administration and foreign policy guidelines fixed by the President of the Republic, in accordance with powers under the Constitution.
The agencies and entities of the Federal Public Administration, pursuant to the provisions of the Organic Law of Federal Public Administration maintain coordination with the Secretariat to carry out actions abroad.
SECTION 1-Bis. For the purposes of this Act shall apply:
...
IX. Diplomatic Representations: The embassies and permanent missions;
...
XIII. Head of Mission: The Holder of diplomatic representation.
ARTICLE 2. Applies to Foreign Service
I. Promote and safeguard national interests in foreign states and international organizations and meetings in Mexico involved;
...
III. Maintain and develop relations between Mexico and the members of the international community and take part in all aspects of such links within the jurisdiction of the State, ...
ARTICLE 41. It is the obligation of every member of the Foreign Service acting according to the law, honesty, loyalty, impartiality and efficiency corresponding to any public servant in the performance of their jobs, positions, or commissions, as well as help fulfill the functions that this Act instructs the service itself, in accordance with guidelines established by the Secretariat.
Without prejudice to the immunities and privileges which belong to them, to respect the laws and regulations of the government to which they are accredited and observe social customs of the country and international diplomatic practice.

Also, in terms of applicable legislation, members of the Foreign Service shall refrain from engaging in conduct of electoral partisan nature or

incompatible with the performance of their public duties, and to make statements that commit the country's interests.

The above cited legal code which was cited by the very responsible authority in his justified report in pages 276 and 277 show that the permanent emphasis and submission are part of the Foreign Mexican Service which is run, administrated, and a dependent entity of the Secretary of Foreign Relations an organ which is ascribed to federal executive as was set forth in the Organic Law of the Administration of the Federal Republic.

It is worth noting that the very implicit judicial precepts set forth by the responsible Ambassador do credit that the cats of such personnel of Mexican Foreign Service such as the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States are subject to the precepts and norms that are consecrated in the Political Constitution of the United States of Mexico and in its secondary national dispositions such as the Organic Law for the Federal Public Administration.

Thus, the grounds against the constitutional act at issue that are set forth by the responsible authority and the AGGRIEVED THIRD PARTY are irrelevant but since they are internally contradictory insofar it demonstrates that the act being claimed constitutes an act issued by a Mexican Foreign functionary who should follow the constitutional principles in the Magna Carta.

Moreover, it is the eventual fulfillment of any possible protective sentence would obligate a national administrative authority such as the aforementioned Ambassador who expressly recognizes he should keep his acts within the Constitutional principles as well as to act in a lawful manner, with honesty and loyalty

Page 77

BARCODE

an impartiality and an efficiency that belongs to all public servants in the discharge of employment, commissions, or positions (Article 1,1-bis, fractions IX and XIII, 2, fractions I and III, and 41 of the Mexican Foreign Service Law).

The dogmatic affirmation of the responsible chancellor also needs to be dismissed insofar the argument that to grant the amparo would impact the sovereignty of the United States of America arguing that, that would violate the principle of no intervention consecrated in Article 89 fraction s of the General Constitution of the Republic taken under consideration that the amparo petition filed by the complainants does not dispute any act of any functionary of that nation but only the act issued by a public servant of the Secretary of Foreign Relations.

In that way, given the structure and design of the institution of the amparo trial pursuant to its General Rules the protective judgment would only constraint the authority identified as being responsible and in no way those functionaries are alien to the constitutional controversy and this has single relevancy insofar that if the complainants did not identify the eventual acts effectuated by the Department of State and the Department of Justice of the United States of America there is no logical reason to allege that the judicial power of the Federation would unduly intervene abroad since we reiterate it would not issue a judgment or an order against a foreign power.

On the other hand, the arguments set forth by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States and the Aggrieved Third Party alleging that the amparo trial does not lay insofar Diplomatic Note 07654 of November 4, 2011, is not an act of an authority, rather, a political act or an act of foreign policy and accept from abiding from the guarantees and legality that are consecrated in the General Constitution of the Republic are ineffective and immaterial inasmuch as on the first place it constitutes an argument that goes to the issue

Page 78

BARCODE

That cannot be analyzed insofar the well-foundedness of the constitutional action. Secondly, because the very same responsible functionary admitted and expressly recognized in his justified report (Pages 276 and 277) that in accordance with what is set out in Article 10,10-bis, fractions IXNXIIXIII, 20, fractions IXN3, N41 of the Mexican Foreign Service Law. He should respect and follow in his cats the constitutional principles as well as act in accord to the law, in honestly, faithfulness, impartiality, and efficiency that correspond to all public servants in the discharge of their charges or commissions.

In that light, it is uncontroverted that the acts taken by the responsible ambassador constitute acts of authority which even have support in the General Constitution of the Republic and under the general expressed rules of the Mexican Foreign Service Laws and such acts should be subject to constitutional principles and to the Organic Law of the Federal Publican Administration.

It should be highlighted that Article 89 fraction X of the Political Constitution of the United States of Mexico does not establish an estate of exemption nor does it exclude from the respect from the principles of legality that is consecrated in the very political code as can be seen from this following transcription

ARTICLE 89. The powers and duties of the President are the following:

...

X. Conduct foreign policy and international treaty, as well as finishing, denounce, suspend, modify, amend, and withdraw reservations and interpretative declarations formulated thereon, subject to the approval of the Senate. In conducting such a policy, the Executive Power shall observe the following guiding principles: self-determination of peoples, non-intervention, peaceful settlement of disputes, the prohibition of the threat or use of force in international relations, the

legal equality of states, the international development cooperation, respect, protection and promotion of human rights and the struggle for peace and Security; ...

The transcription that proceeds reveals that among the faculties of the President of the Republic is found the ability to direct foreign policy and to enter into international treaties, as well as, to end, denounce, suspend, modify, amend, withdraw, all reservations and formally declarations interpreting those documents subjecting the same or submitting the same to the approval of the Senate of the Republic.

Likewise, the same constitutional disposition foresees that in the handling of such policy the leader of the executive branch shall observe the following principles and rules:

a. the auto-determination of its people
b. no intervention
c. the peaceful solution to controversies
d. the prohibition of threatening or use of force in international relations
e. legal quality among the states
f. international cooperation for development
g. to respect protection and promotion of human rights and to fight for peace and international security.

The first conclusion that can be derived from this code is that the power to direct Mexican foreign policy for corresponds, in an immediate fashion, to the President of the Republic not to the Secretary of Foreign Relations or the Ambassadors or Consuls since the latter should only follow the orders and instructions issued by the federal executive.

The second conclusion lies in that the handling of the foreign policy is not uncritical rather, it is subject to several diverse constitutional principles that the constituent power set upon deferring the Magna Carta without having exempted from adherence

Page 80

BARCODE

of other constitutional dispositions to the bodies involved in the conduct of the Mexican foreign policy.

Moreover, no part of Article 89 fraction X, of the Political Constitution of the United States of Mexico creates or institutes any type of classification of acts from authority and political acts or foreign policy, much less, that they are exempt from abiding by the guarantees of legality consecrated in the XVI of the very same political code.

As against this background, the dogmatic affirmation of the responsible authority and of the third prejudice party lacks all judicial footing insofar the statement the Diplomatic letter issue is a political act or an act of foreign affairs and not of authority, and thus escapes the application of the principles of judicial security and of legality. In the first place, this is an argument that would involve going to the merits of the constitution lawsuit and that cannot be examined insofar the well-foundedness of the amparo trial. In second place, insofar the political Constitutional of the United States of Mexico does not establish such classification nor does it accept from its jurisdiction human rights thus making an amparo trial not well-found.

It makes sense to point out that pursuant to Article 103 of the General Constitution of the Republic it does not exclude from the spring control the authorities prescribed to the Secretary of Foreign Relations since that constitutional norm states the following

ARTICLE 103. The Federal courts settle disputes that arise:
I. For general rules, acts or omissions of the authorities that violate human rights and guarantees recognized for their protection granted by this Constitution and by international treaties that the Mexican State is a party,
II. For general rules or federal authority acts that violate or infringe upon the sovereignty of the states or the purview of the Federal District, and

Page 81

BARCODE

III. For general rules or acts of the authorities of the State or Federal District to invade the sphere of competence of the federal authority.

From the prior transcription, one can see that the tribunals of the federation shall resolve all controversies that may arise out of legislation, acts or missions of authorities where these violate the recognized human rights and the guarantees granted for its protection in the Political Constitution of the United States of Mexico, as well as, in the international treaties that the United States of Mexico is a part thereof.

The above becomes singly relevant insofar the constituent power was emphatic in guaranteeing that all authority be subject to the law (logically national authority) and unto the constitutional control that the very Magna Carta provides for. This means through the amparo trial (among other means of constitutional control).

If the act being claimed is constituted by Diplomatic Note 07654 of November 4, 2011, issued by Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - in his proper title- it is illogical to argue that act escapes the constitutional scrutiny that is being asked for and therefore gives rise to the dismissal of the amparo trial since it is evident that an act of the Mexican administrative authority is in no way exempt from respecting the human rights recognized and the guarantees granted for its protection in the Political Constitution of the United States of Mexico, as well as, in the international treaties to which Mexico is a party to.

Even more so, the precepts involved by the responsible authority in his justified report and by the third prejudice party in his argument do not foresee the abovementioned hypothesis nor do they establish any exception to it and to the human rights being that even Article 29 of the General Constitution of the Republic does not set forth that the acts

that the acts done in issues of foreign policy fall outside of the mandate of the guarantees of judicial security and legality, as can be seen in the following transcription:

ARTICLE 29. In the event of invasion, serious disturbance of the public peace, or any other that puts society in danger or conflict, only the President of the United Mexican States, according to the heads of the Departments of State and the Attorney General of the Republic and with the approval of Congress or the Standing Committee when that is not in session, may restrict or suspend throughout the country or in a particular the exercise of the rights and guarantees that are obstacles to deal quickly and easily to the situation, but must do so for a limited time, by means of general and without restriction or suspension does not affect a particular person. If the restriction or suspension should occur while Congress assembled, shall grant authorizations that it deems necessary for the Executive to meet the situation, but if it occurs during a period of recess, immediately convene Congress to grant them.
In the decrees to be issued may not be restricted or suspended the exercise of rights to non-discrimination, recognition of legal personality, to life, to personal integrity, to protect the family, the name, nationality , the rights of children; political rights, freedom of thought, conscience and to profess any religious belief, the principle of legality and retroactivity, the prohibition of the death penalty, prohibition of slavery and servitude, the prohibition of forced disappearance and torture, nor the judicial guarantees essential for the protection of such rights.
The restriction or suspension of the exercise of the rights and guarantees must be founded and justified in the terms established by this Constitution and be proportionate to the danger he faces, observing at all times the principles of legality, rationality, proclamation, advertising and

discrimination.

When you end the restriction or suspension of the exercise of the rights and guarantees, either by the deadline or because so decreed by Congress, all legal and administrative measures taken during its term without effect immediately. The Executive may make comments to the decree by which the Congress to repeal the restriction or suspension.

The decrees issued by the Executive during the restriction or suspension will be reviewed immediately and ex officio by the Supreme Court of Justice of the Nation, which shall act as quickly on their constitutionality and validity.

The above-transcribed constitutional code establishes a guarantee in the issues of human rights since the suspension or restrictions of these can only take place in specifically identified moments and with certain formalities being that the foreign policy does not set forth and restrictions or suspension in this field.

It should be noted that the legislative establish an expressed prohibition in relation to the suspension or restriction of the principle of legality since it cannot be the object of the decree of suspension of guarantees. In any event, from there, one can see the inefficacy of the false arguments of the responsible authority and AGGRIEVED THIRD PARTY in thematically affirming that the acts issued in matters of foreign policy do not need to respect the principles of legality and judicial security and fall exempt of all constitutional control and, therefore, give rise to the dismissal of the amparo trial.

It is important to note that all the contrary to what has been alleged by the responsible party and the AGGRIEVED THIRD PARTY the fact that administrative act may eventually have repercussions in foreign policy that simple circumstance does not stop it from continuing to be an act of an authority and, therefore, escape that constitutional scrutiny set forth in the fundamental law and much less give grounds for the dismissal of the amparo trial.

For the aforementioned reasons it is in the jurisprudence B.4/J. 234/2007, B.4/J. 94/2006, First A.4/J. 84/2006 and Second A.4/J. 101/2003, is inapplicable where its headers reads "**PRINCIPLES OF DIVISION**

84 bar code

85 762

PRINCIPLE OF DIVISION FUNCTIONAL SKILLS. PROCEDURE TO DETERMINE ITS INFRINGEMENT, FUNCTIONAL PRINCIPLE OF DIVISION OF POWERS. ITS FEATURES. , CONSTITUTIONAL ANALYSIS. STRENGTH IN LIGHT OF DEMOCRATIC PRINCIPLES AND DIVISION OF POWERS. And INTERNATIONAL JUDICIAL IMMUNITY. IT IS NOT AN UNLIMITED RIGHT

set forth respectively by the First and Second Chambers of the Supreme Court of Justice of the nation as alleged in the justified report of the responsible authority and in the argument brief of the AGGRIEVED THIRD PARTY. Inasmuch as, firstly, they have no relation with the arguments they set forth nor do they establish that alleged distinction of classification between acts of authority and political acts or foreign policy and, even less, does it support the argument that they escape constitutional control to which all acts of Mexican authority are subject to such is the Ambassador Extraordinary and Plenipotentiary of Mexico in the United State of America. .

In that light, it is obvious and patent that judicial criteria allege by the responsible authority in his justified report do not favor him being that it supports a position contrary to that which has been set forth to what the High Tribunal has already expressly determined, that being, that in following fundamental democratic principles and functional division of different branches of government the authorities find themselves subject to the framework established in the General Constitution of the Republic without any exception and being that the functionaries must act within those limits and attributions and not that they shall consider to be free of it and therefore that an amparo trial filed against them should fall to be dismissible.

This can be read in the following transcription

PRINCIPLE OF DIVISION FUNCTIONAL SKILLS. PROCEDURE TO DETERMINE ITS INFRINGEMENT. The functional principle of division of powers between the

87 763

branches of government and the governing bodies of the Federal District, established in Article 122 of the Constitution of the United Mexican States, can be disobeyed if it affects the exercise of the powers conferred going for any of the organs or powers that their competence. Thus, to determine whether or not the offense, the following steps must be observed: 1. Supervised: a study to determine what matters is the act of competence displayed by the organ or power, i.e., must be subject exerted and contested competition, for which the subject has to be analyzed itself. Two. Location: examine whether the material is identified and the Federal Powers authority or local authorities, this in accordance with the provisions of both Article 122 of the Constitution and in the provisions of the Statute of Government of the Federal District, hence it must be noted that the action of the organ or issuer to rest in a standard act, whether constitutional or statutory, that grants the authority the power to act in a certain way, i.e. to respect the constitutional and statutory definition of the sphere of competence of the authorities, and to determine whether competition effectively exercised corresponded to Federal Power who has acted or body or authority of the Federal District that has been deployed. Three. Regularity: analyze whether the organ or power exercised competition rightful did not violate the sphere of competence or powers to other bodies in the same area are planned for the exercise of their functions, so at this point must be determined whether in the allocation of powers to the organs or powers of the same area are prohibitive mandates implicitly addressed to them, in the sense that it does not overstep the exercise of the powers conferred on them, for which we analyze whether updated or not three different levels: a) the non-interference, b) non-dependence, and c) non-subordination.

CONSTITUTIONAL ANALYSIS. STRENGTH IN LIGHT OF DEMOCRATIC PRINCIPLES AND DIVISION OF POWERS. According to the considerations supported by the First Chamber of the Supreme Court of Justice of the Nation in the 1st argument. CXXXIII/2004, under the heading "EQUALITY. CASES IN WHICH THE JUDGE CONSTITUTIONAL SHOULD A SCRUTINY STRICT STANDINGS LEGISLATIVE

(INTERPRETATION OF ARTICLE 1 OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA). "Whenever the sorting action of the legislature impinges on fundamental rights guaranteed by the Constitution , need to be applied with particular intensity the requirements of the principle of equality and non-discrimination. Similarly, in those cases in which the Constitution limits the discretion of Congress or the Executive, intervention and control of the Constitutional Court must be larger, in order to respect the design established by it. For this High Court is clear that the normative force of the democratic principle and the principle of separation of powers has the obvious consequence that the other organs of the state and among them, the judge must respect the constitutional-free configuration that Congress have

and the Executive, as part of their duties. According to the above, the severity of judicial control is inversely related to the degree of freedom of design by the authors of the standard. Thus, it is clear that the Federal Constitution requires trial modulation of equality, without implying any waiver of the Court to the strict exercise of its supervisory powers. By contrast, in the case of economic regulation or tax effects, as a rule, the intensity of constitutional analysis should be lax in order not to undermine the political freedom of the legislator, in areas such as economic, where the Constitution establishes a broad functional capabilities and differential regulation of the State, considering that when the Constitution establishes a margin of discretion in certain matters, that means that the chances of interference are minor constitutional court, and therefore, the intensity of control is limited. In such areas, a very strict control would replace Judge constitutional legislative power of Congress, or may correspond to extraordinary executive function-it is not the Federal Judiciary, but political bodies, begin to analyze whether these classifications economic are the best or if they are necessary.

A simple reading of the above reproduced criteria makes manifest that there exists no exception to constitutional control as to the acts administrative in nature issued by the Secretary of Foreign Relations in issues of foreign policy. This together with the fact that the different powers of the union may exercise different powers does not translate in that they can do so without any limitation. Since the framework for those acts is the constitutional principles that are protected by the tribunal powers of the federation through different means of constitutional control that are provided for in the Magna Carta, be it through acts of unconstitutionality, constitutional questions, or the trial of amparo.

Likewise, the jurisprudence argued by the Aggrieved Third Party in his argument brief, is inapplicable. This jurisprudence is found in registry number 2A.4/J. 1014/2003, set forth in the Second Chamber of the Supreme Court of the Nation found on Page 149 - XVIII, November 2003 in the Judicial Weekly of the federation in this - Ninth Epoch, the header and text of which reads as follows

INTERNATIONAL JUDICIAL IMMUNITY. IT IS NOT AN UNLIMITED RIGHT. Immunity recognition undertake a State court against another, or against an international body, should be seen as a feature that prevents other states to exercise jurisdiction over acts undertaken in exercise of its sovereign power, or, on goods for which holds or uses in exercising that sovereign power. However, the evolution of jurisdictional immunity that was initially recognized as absolute, is not currently unlimited prerogative, as in accordance with the doctrine, foreign states or international organizations to operate in a foreign state, can perform two types of acts: some who identify with those that the State made in the exercise of its sovereign power, and others who performs like any particular case that the latter generally referred not granted immunity.

This is so by virtue of the fact that the cited criterion of the Highest Tribunal did not hold the unfoundedness of an amparo trial insofar an eventual admission of diplomatic notes that solicit jurisdictional immunity nor did it hold or evidence any pronouncement tending to demonstrate that acts of foreign policy are exempt from constitutional control and that therefore lawsuits filed against them should be dismissed.

Moreover, the analysis of the judgments that came about from the quoted jurisprudence make manifest that they central issue have to do with issues as to the merits not the well-foundedness and had to do in relation to the obligation that the Latin American Institute

of the informative communication to contribute to the public coffer in terms of Article 31 fraction IV of the Political Constitution of the United States of Mexico without it having dealt with the analysis having to do with the well-foundedness of the amparo trial brought forth against diplomatic notes that solicit jurisdictional immunity.

Likewise, in those precedents cited the issue that was analyzed was to the merits (not the well-foundedness), having to do with whether due to the international framework applicable to the institute at issue whether it was exempt or not from having to pay federal contributions to the country due to its possible jurisdictional immunity. With the high tribunal coming to the conclusion that the prerogative is unlimited and, therefore, it would be an organism at issue have the duty to contribute to the public coffers. The foregoing is of single relevancy insofar very third party injured alleged elements that demonstrated that the amparo trial was well-founded as to requests of jurisdictional immunity such as the one claimed hereto being that the jurisprudential criteria that he invoked in his argument brief stands for the proposition that the judicial power of the federation not only has the jurisdiction but the obligation to analyze political acts that touch foreign policy wherein they effect the human rights of the conational.

In that framework, the canonic affirmation of the responsible authority alleging that it is not subject to any constitutional control and that he cannot whichever way he seems fit is unfounded being that to uphold such arguments would translate in moving back 300 years backwards basing ourselves in a system of absolute anarchy without knowledge of all democratic systems and constitutions respect to human rights.

Then through reduction to absurdity the argument would lead us to valiantly support the state that the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States

could if he so wanted could sell or dispose of the entire territory of the nation or any portion of the federation which in any agreement to foreign power sounds convenient and in virtue of the fact that according to him, he can act without any respect to any human right and any constitutional guarantee he would be exempted from the application of from rule of law.

Hence, the foregoing exercise of basic logic yields the unsustainable result of the arguments set forth by the responsible authority and the AGGRIEVED THIRD PARTY since not only do they pretend to not know any constitutional control that the judicial power of the Federation could exercise over them but, also any parliamentary control that the Senate of the republic should exercise in accordance with Article 76 fraction I and II of the Political Constitution of the United States of Mexico which sets forth the following:

Article 76.

The exclusive powers of the Senate:

I. Analyze foreign policy developed by the Federal Executive based on the annual reports of the President and the Secretary of the Office for surrender to Congress. In addition, approve international treaties and diplomatic conventions signed the Federal Executive and their decision to terminate, terminate, suspend, modify, amend, withdraw reservations and interpretative declarations formulated thereon;

II. To ratify the appointment by the same official then Attorney General of the Republic, ambassadors, consuls general, employees of Finance, members of collegial bodies responsible for regulation in telecommunications, energy and economic competition, colonels and other top leaders Army, Navy and Air Force, in the manner provided by law;

The statements that precedes shows that the acts undertaken by the Secretary of Foreign Relations are not only subject to the constitutional control exercised by the tribunals of the judicial power of the federation but that also

by the mechanisms of parliamentary revision available before the Senate of the republic (legislative power) hence the grounds for dismissal of the constitutional action set forth by the responsible authority AGGRIEVED THIRD PARTY lack efficacy or relevancy.

Additionally, it is important to note that the mere fact that the responsible ambassador belongs to the Mexican Foreign Service and therefore has his offices abroad means that he is exempt of respecting national laws or stops being a part of the Centralized Federal Administration this would be under the false argument that he is not an authority and that he only performs political acts or foreign politic and not acts of authority (which is a self-contradicting argument). Being that even granted that that functionary enjoys immunity as the Chief of the Mission; it is true that his acts can be questioned and scrutinized on the basis of national law, inasmuch as, the diplomatic mission is an extension of the Mexican territory a fact that is recognized in international law, especially in Articles Third, 20, 22, 24 and 29 of the Vienna Convention on Diplomatic Relations published in the Official Diary of the Federation on August 3, 1965, as can be read in the following transcription

Article 3

1. The functions of a diplomatic mission consist mainly of:
a. represent the sending State in the receiving State
b. protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by international law;
c. negotiate with the government of the receiving State,
d. ascertaining by all lawful means conditions and developments in the receiving State, and reporting thereon to the Government of the sending State,

BAR CODE 92

93 766

and. E) promoting friendly relations and develop economic, cultural and scientific relations between the sending State and the receiving State.
Two. Nothing in this Convention shall be construed to prevent the exercise of consular functions by a diplomatic mission.
Article 20
The mission and its head shall have the right to use the flag and emblem of the sending State on the premises of the mission, including the residence of the head of mission and the means of transporting it.
Article 22
1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them without the consent of the head of the mission.
Two. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
Three. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.
Article 24
The archives and documents of the mission shall be inviolable, wherever located.
Article 29
The person of a diplomatic agent shall be inviolable. It cannot be subjected to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

From the texts above attention is drawn to the fact that the diplomatic mission represents the accrediting state before the receiving state and one of its main functions is to protect his representation and the interest of his nationals within the limits allowed for by international law.

Furthermore, his cited statutes set forth that the mission and its chief (ambassador) shall have the right to place the flag and shield of the accrediting state on the premises of the mission, even in the residence of the Chief of the Mission and the means of transportation available to him.

Lastly, it is specified that the premises of the mission are indolent in that he agents of the receiving state cannot, in a trip to same, without the consent of the Chief of the Mission. Moreover, the archives and documents of the mission are always indolent wherever they may be found.

On these premises it is patent that the diplomatic missions or embassies constitute an extension of the accrediting state within that of the receiving state inasmuch that there exists an immunity and inviolability of the goods and the persons that conform the missions being that an extension of the national territory since they even have the right to place the flag and the shield of the accrediting state in the premises of the mission.

This prior information is stressed by virtue of the fact that by having the right to place insignias or items that identify the accrediting state it, in fact, expands the framework of sovereign reference. This is recognized by the principle of international reciprocity meaning a mutual recognition among the signors of the Vienna Convention on Diplomatic Relations or as in this case, in between nations that establish bilateral or multilateral collaboration.

As such, the aforementioned extension of the state finds a support with the jurisdictional immunity that diplomats enjoy in conformity with which is set forth in Article 31 of the Vienna Convention on Diplomatic Relations published in the official diary of the federation on August 3, 1965 which states as follows

“Article 31”

1. the diplomatic agent shall enjoy the immunity of the penal jurisdiction of the receiving state. They shall also enjoy the immunity as well in civil jurisdiction and administrative jurisdiction except when:

a. real action on private immovable property situated in the territory of the receiving State, unless the agent holds it on behalf of the sending State for the purposes of the mission;

95 767

b. an action relating to succession in which the diplomatic agent appearing in a private capacity and not on behalf of the sending State as executor, administrator, heir or legatee,

c. an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions. Two. A diplomatic agent is not obliged to testify. Three. A diplomatic agent shall not be subject to any enforcement action, except as provided in paragraphs a, b and c of paragraph 1 of this Article and provided that without infringing the inviolability of his person or of his residence. April. The immunity of a diplomatic agent in the receiving State does not exempt him from the jurisdiction of the sending State.

The aforementioned makes manifest on the general rule diplomatic agents enjoy jurisdictional immunity insofar the penal code of the receiving state and moreover they shall enjoy civil jurisdictional and administrative immunity for listed cases.

Nevertheless, the previously cited point number 4 of the Vienna Convention on Diplomatic Relations sets forth literally that the jurisdictional immunity of diplomatic agents in the receiving state does not exempt them from the jurisdiction of the accrediting state.

In other words, even though the jurisdiction of the receiving state (headquarters of the Embassy) finds itself unable to pass judgment on the cats of diplomatic agents this is not an obstacle to the jurisdiction of the accrediting state (country of origin). It is not an obstacle so that the jurisdiction of the accrediting state (country of origin) can affect scrutiny of the acts of those individuals since they cannot find themselves immune of any jurisdiction (national or foreign).

Hence, while it is true diplomatic agents enjoy immunity insofar the jurisdiction where they find themselves accredited, it is also true that they are such of jurisdiction of their country since immunity is not a synonym for impunity.

95 bar code

The foregoing finds support not only in the previously cited disposition of international law which have been subject of publication but also with our domestic law that recognizes the same such situations in Article 104, fraction eiii, of the Political Constitution of the United States of Mexico, 50, fraction I, sub C and D and 53, fraction IV of the Organic Law of the Judicial Power of the Federation and 5 fraction V of the Federal Penal Code that state the following

POLITICAL CONSTITUTION OF THE UNITED STATES OF MEXICO

Article 104. The Federation tribunals shall hear:

..

vIII. Of the cases involve members of the diplomatic and consular corps.

Organic Law of the Judiciary of the Federation:

Article 50. Criminal Federal judges hear:

I.

Of federal crimes.

They are federal crimes:

c) committed abroad by diplomatic, official staff delegations of the Republic and Mexican consuls;

d) The tasks in embassies and legations;

Article 53. The federal civil district judges hear:

...

IV. In civil cases involve members of the diplomatic and consular corps;

Federal Criminal Code:

Article 5 .. Be considered as executed in the territory of the Republic:

...

V. The tasks in Mexican embassies and consulates ...

From the foregoing, attention is drawn to the fact that he Tribunal for the federation shall be competent to hear cases concerning members of the diplomatic core even District Judges in the criminal division shall be able to hear crimes committed by elements of the foreign service

BAR CODE 96

97 768

of the Mexican Foreign Service in the Embassies where they may be assigned being that violations of the law that they may perform are considered to be a federal jurisdiction, the same situation that occurs with their civil conflicts which shall be heard by district judges in the civil division.

The above has single relevancy insofar that although members of the diplomatic service enjoy jurisdictional immunity in the receiving state their acts shall fall under the scrutiny and jurisdiction on the accrediting state and the federal dispositions shall be applied as the matter (penal, civil, mercantile, administrative, etc.)

While it is true the responsible ambassador is not subject to the jurisdiction of the United States of America it is likewise that his cats can be checked or scrutinized by the competent Mexican authority. This means if he commits a violation of the law abroad, even when he shall not be adjudged in that country, he shall be subject to the federal penal laws of Mexico (following the principle of no impunity in penal matters) and likewise the same would occur with any civil conflicts or familiar conflicts those being falling under the jurisdiction of the district courts of the judicial power of the federation.

Therefore, applying the above-referenced jurisdictional system of the extension of sovereignty to the acts conducted by the embassies of the Mexican state it is simply to conclude that the acts issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States do find themselves subject to constitutional control and legal

control mechanism of national control among which are found principally the amparo trial consecrated in Article 103 and 107 of the General Constitution of the Republic from this the constitutional action is well-founded against Diplomatic Note 07654 of November 4, 2011.

Likewise, the generic arguments presented by Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America should be dismissed insofar the argument that his acts are irreversible when one considers that the AGGRIEVED THIRD PARTY enjoys diplomatic immunity as Chief of State even after having concluded his public charge, following the principal of international law, referred to as residual immunity as being that such thematic manifestations or arguments go to the merits of the case which cannot be examined when verifying the well-foundedness of the trial.

Moreover, the previously cited affirmations lack any judicial support insofar the responsible authority does not cite any international code, nor, domestic code and much less any Article fraction, sub-fraction, paragraph or normative portion that could in any event support the generic manifestations set forth in his justified report in favor of the AGGRIEVED THIRD PARTY.

It would not be remised to point out that even though some of the acts of the federal executive, through the Secretary of Foreign Relations, this means, through the diplomatic core of Mexican Foreign Service could constitute communications among authorities. It is likewise true that when they touch the judicial sphere of individuals they must respect the human rights of the governed in accordance with the General Constitution of the republic and the international treaties celebrated by the state of Mexico.

In that case the Diplomatic Note 07654 of November 4, 2011, issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States - in his proper title -does not constitute simple communication among authorities as it was explained in the preceding paragraph since it transcends or affects

the judicial sphere of the complainants since it requests the termination of a civil trial filed by them all at the request of the Mexican Chancellery openly favoring AGGRIEVED THIRD PARTY. Hence, contrary to what has been argued by the responsible authority and the AGGRIEVED THIRD PARTY, the effects are not limited to international law or relations between the two nations but they involve the rights of individuals such as the eventual dismissal of the Docket Item 3:11-CB-01433-8WT filed before the District Court of Connecticut, United States of America, in benefit of AGGRIEVED THIRD PARTY.

In another context the Ambassador extraordinary of Mexico [INSERT AMBASSADOR] and the AGGRIEVED THIRD PARTY make the generic claim that the amparo trial is not well-founded arguing that the Diplomatic Note at issue does not constitute an act of authority because it does not modify or extinguish a concrete judicial situation and does injure or benefit the complainants, arguing Article 73 Fraction XVIII in relation to the diverse XI of the Law of Amparo.

This basis for dismissal set forth is unfounded by virtue that these are contradictory arguments to those set forth in the justified report and in the Summary of Arguments of the AGGRIEVED THIRD PARTY. Insofar on the one hand they argue that the Diplomatic Note at issued is not an act of authority and on the other hand affirm that it is an act of political authority that even has its basis in Article 89 Fraction X of the Political Constitution of the United States of Mexico and the laws of Foreign Service in Mexico as well as the Vienna Convention on Diplomatic Relations published on August 3, 1965, in the official diary of the federation as can be read in the following transcription

JUSTIFIED REPORT

Therefore ..., and for the purpose of executing foreign policy in accordance with constitutional principles, the Federal Executive is supported by the Mexican Foreign Service, which is the permanent body specifically responsible state officials to represent abroad and responsible for executing foreign policy in terms of the provisions of Article 1. From the Mexican Foreign Service Act, whose leadership and management are handled by the Ministry of Foreign Affairs.
Given this, the ambassador of Mexico in the United States of America is entitled to protect the interests of Mexico in the country, because it acts as a representative of the Mexican State in terms of the provisions of the Vienna Convention on Diplomatic Relations, published in the Official Journal of the Federation on August 3, 1965 ...

WRITTEN SUBMISSIONS

… If it is an act of foreign policy, in accordance with Article 89, Section X, of the Policy Constitution United Mexican States, and the customs and practices of diplomatic law and the international law principle of immunity and equality of States, proclaimed and guaranteed by Article 1. From the United Nations Charter ...

In that sense the contradiction in which the responsible authority and the AGGRIEVED THIRD PARTY find themselves becomes evident since they are pretending to argue that the amparo trial is not well founded with arguments that dismiss each other being that it is not logical to categorically affirm that the act at issue it founded in the foundation of the Magna Carta and rules that regulate Mexico Foreign Service and afterwards argue that it is really not an act of authority.

As an aside to the incredibility of the manifestations set forth by the responsible authority and the AGGRIEVED THIRD PARTY, it is important to note that the coordination relationships are those that are established between particulars or private individuals in which these individuals will act on an equal plane. This means, equality so

that to resolve the difference an impede that they seek self-justice among themselves. It is created in the law

the necessary and ordinary procedures to resolve them within these types of relationships are found those that are regulated by the civil code, mercantile, agrarian, and labor and are apart and distinct when they types of relationships that they parties involve should go to the ordinary tribunals so that together and by the force of law. The judicial consequence and consequence by them or set forth by the law all being at the same level, existing bilateralism in the functioning of this type of relationship.

On the other hand, relations above subordination are those between the people that govern and those that are governed. Since the first act in a higher plane to the second to the benefit of the public order and social interests and are regulated by public law that is also establishes the proceedings to resolve conflicts that may be found in the acts of the organs of the state. Among these one can highlight in the ordinary form the adversary administrative procedures and the mechanisms of defense of the human rights while in the constitutional framework lies the amparo trial, the characteristic of which is about unilaterally and hence the General Constitution of the republic establishes a series of individual guarantees as limitations to the acts of those who govern since the public body imposes its will without need to go to the tribunals.

Finally, the relationships of supra-ordination are those set forth among organs of the state in which they all act in an equal plane superior and above the private ones regulating themselves also through the public law which establishes mechanisms for the resolution of jurisdictional and political highlighting among these constitutional controversies and loss of constitutionality according and as set forth in Article 5 Fraction I and II of the General Constitution of the republic.

It is applicable to the foregoing, due to its contents and reach, thesis XXXVI4/49 set forth by the Second Chamber of the Supreme Court of Justice of the nation found on Page 307, tom IX, March 1999 in the Judicial Weekly of the federation and its cassette 9th Epoch which header and text state as follows "Authority for effects of the Amparo

> AUTHORITY FOR THE EFFECTS OF AMPARO, has that character a State organ that affects the legal rights of the governed in legal relations that take place between individuals. The general theory of law distinguishes between legal relations coordination, filed between individuals on civil, commercial or labor, requiring the intervention of an ordinary court with such powers to settle disputes arising between the parties, of subordination, established between rulers and ruled in matters of public law, where the will of the ruler directly imposed unilaterally without a court performance, existing as to its performance limit individual rights enshrined in the Constitution and those of supraordinario that take place between state bodies. The marked parameters useful to distinguish effects papra authority under since, first, it must not be an individual, but of a State organ who unilaterally impose its will in above or subordination relations, governed by the law public, affecting the legal rights of the governed.

In this light the points are distinguished an authority for the issue of the amparo trial are the following

a. the existence of an entity in fact or in law that establishes a relationship above subordination with an individual
b. that relationship finds its genesis in the law which grants that entity an administrative faculty which

BARCODE

which performance is the full exercise of which us unpronounceable since the source of that ability is public

c. that on the basis of that relationship it issues unilateral acts through which it creates, modifies, or extinguishes by itself or before itself additional situations that effect the legal sphere of a private individual and

d. in order to do or issue those acts, it does not need to seek or go before judicial organs nor seek the consent of the affected parties.

The above referred condition precedence are found in this case since the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America is a Mexican Administrative authority that belongs to the secretary of Foreign Relations which is a dependence that belongs to the Federal Centralized Administration auxiliary executive to the union as what so forth in Article 76 Fraction 1 and 2 and 80 and 89 Fractions 2, 3, 10 and 90 of the Political Constitution of the United States of Mexico 12 Fraction i10, 14, 26, and 28, Fraction II of Organic Law of Federal Public Administration 10,10 2, 3, 4, 10, 19 and 20 of the Mexican Foreign Service Law, 1, 2, 3, 4, 5 of the Interior Bylaws of the Secretary of Foreign Relations, 1, 2, 3, 26 and 17 of the Bylaws of the Mexican Foreign Service Law which states as follows:

> Political Constitution of the United States of Mexico:
> Article 76.
> The exclusive powers of the Senate:
> I. Analyze foreign policy developed by the Federal Executive based on the annual reports of the President and the Secretary of the Office for surrender to Congress.
> In addition, approve international treaties and diplomatic conventions signed the Federal Executive and their decision to terminate, terminate, suspend, modify, amend, withdraw reservations and interpretative declarations formulated thereon;
> 103 [bar code]

II. To ratify the appointment by the same official then Attorney General of the Republic, ambassadors, consuls general, employees of Finance, members of collegial bodies responsible for regulation in telecommunications, energy and economic competition, colonels and other top leaders Army, Navy and Air Force, in the manner provided by law;
Article 80.
Exercise is deposited Supreme executive power of the Union in a single individual,
to be called "President of the United States of Mexico."
Article 89.
The powers and duties of the President are the following:
...
II. Appoint and remove freely the secretaries of state, remove the ambassadors, consuls general and employees of Finance, appoint and remove freely to other employees of the Union, whose appointment or removal is not otherwise in the Constitution or in laws;
III.
Appoint, with Senate approval, ambassadors, consuls general, employees of Finance and members of collegial bodies responsible for regulation in telecommunications, energy and economic competition;

III. Appoint ministers, diplomatic agents and consuls generals with Senate approval.
...
X. Conduct foreign policy and international treaty and finish, terminate, suspend, modify, amend, and withdraw reservations and interpretative declarations formulated thereon, subject to the approval of the Senate. In conducting such a policy, the Executive Power shall observe the following guiding principles: self-determination of peoples, non-intervention, peaceful settlement of disputes, the prohibition of the threat or use of force in international relations; legal equality of states, international cooperation for development, respect, protection and promotion of human rights and the struggle for peace and security;
Article 90.
The Federal Civil Service and para-statal will be centralized under the Act Organic enacted by the Congress, which will distribute the administrative business of the Federation shall be borne by the Secretaries of State and define the general terms of creating para-statals and the intervention of the Federal Government in its operation.

ORGANIC LAW OF THE FEDERAL PUBLIC ADMINISTRATION
bar code 104

-

105 772

Article 1.
This Act establishes the basis for organization of the public administration Federal centralized para-statal.
The Office of the Presidency of the Republic, the Secretaries of State and Federal Executive Legal Counsel, Public Administration Centralized up. Decentralized agencies, the state-owned enterprises, national credit institutions, the national credit auxiliary organizations, national institutions and surety insurance and trusts, public administration make para-statal.
Article 2.
-
In exercising its powers and for the transaction of business of the order administrative entrusted to the Executive of the Union, there will be the following dependencies Centralized Public Administration: Ministries.
Article 10.
-
The Secretaries of State and rank equally among them there will be, therefore,
preeminence. Notwithstanding the foregoing, by agreement of the President of the Republic, the Ministry of Interior will coordinate the actions of the Federal Government to fulfill its agreements and orders.

Article 14.
-
In front of each Secretary will be a Secretary of State, who for the clearance of
matters within its competence, will be assisted by the Assistant Secretaries, Senior, Directors, Assistant Directors, Heads and Deputy Heads of Department office section and table, and other officials established the internal regulation and other legal provisions.
In amparo, the President of the Republic may be represented by the head of the agency to which corresponds the matter, according to the distribution of powers. Administrative appeals brought against acts of the Secretaries of State will be resolved within the scope of its Secretariat in terms of applicable legal orders.
Article 26.
-
For the office of administrative affairs, the executive branch of the Union have the following dependencies:

...
Secretary of Foreign Affairs

Article 28.
-
The Foreign Ministry's office corresponds the following issues:

105 bar code

I. To promote, encourage and ensure coordination of actions outside the agencies of the Federal Government, and without affecting the exercise of the powers each of them appropriate, conduct foreign policy, for which intervene in all kind of treaties, agreements and conventions to which the country is a party;
II. Direct foreign service diplomat and consular aspects in terms of the Mexican Foreign Service Act and, through the same service agents, ensuring abroad for the good name of Mexico; provide protection to Mexicans; charge fees consular and other taxes; perform functions notary, registrar, judicial assistance and other federal functions that indicate the Laws, and to acquire, manage and maintain the properties of the foreign nation;

MEXICAN FOREIGN SERVICE ACT
ARTICLE 1o. The Mexican Foreign Service is the permanent body of officials, specifically charged with representing the importer abroad and responsible for implementing the foreign policy of Mexico, in accordance with the guiding principles established by the Constitution of the United Mexican States. The Foreign Service is dependent on the Federal Executive. His leadership and management are handled by the Ministry of Foreign Affairs, hereinafter referred to as the Secretary, in accordance with the provisions of the Organic Law of Federal Public Administration and foreign policy guidelines fixed by the President of the Republic, in accordance with powers under the Constitution. The agencies and entities of the Federal Public Administration, pursuant to the provisions of the Organic Law of Federal Public Administration maintain coordination with the Secretariat to carry out actions abroad.

ARTICLE 1o-BIS. For the purposes of this Act shall apply:
I. Law: The Mexican Foreign Service Act;
II. Regulation: Regulation of the Mexican Foreign Service Act;
III. Ministry: The Ministry of Foreign Affairs;
IV. Secretary: The Secretary of Foreign Affairs;
V. Foreign Service: The Mexican Foreign Service;
VI. General: The administrative unit of the Secretariat to take charge of matters concerning the Foreign Service personnel.
VII. Matías Romero Institute: decentralized Organ of the Secretariat, which aims consists in preparing high-level human resources and technical analytical themes and materials useful for Mexico's foreign policy, the incumbent will be an ambassador of career Foreign Service ;
Bar code 106

VIII. Representation: The embassies, permanent missions and consulting offices;
IX. Diplomatic representations about: The embassies and permanent missions;
X. Embassy:
Permanent representation of the Mexican State to the government of another country. Their
main functions are political;
XI. Permanent Mission:
The Mexican state representation in international organizations;
XII. Diplomatic Mission:
The embassies;
XIII. Head of Mission:
Holder diplomatic representatives;
XIV. Consular Representation:
The consular offices;
XV. Consular Office:
The representation of the Mexican State to the government of another country, which are made permanent the following functions: protecting Mexicans that are located in his constituency, promote commercial, economic, cultural and scientific
between the two countries and dispatch documents Mexicans and foreigners in terms of this Act and its Regulations. Depending on their size and scope of constituency are classified as: Consular Section, Consulate General, Consulate Honorary Consulate Consular Agency;
XVI. Consular District:
The area assigned to a consular post for the exercise of consular functions;
XVII. Consular Section:
The office of an embassy and consular performs nationwide constituency is sending;
XVIII. Consulate General:
The office in charge of a consular officer, usually with the rank of Consul General and depend on it, consulates and consular agencies that are located in their district;
XIX. Consulate:
The office in charge of a consular officer, which may depend on some consular agencies;
XX. Consular Agency:
The office in charge of a consular official hierarchy is less than that of the consulates because his constituency is very limited;
XXI. Honorary Consulate:

The office in charge of an honorary consul, whether a citizen or an alien, in which he performs without remuneration, limited consular functions;
XXII. Consular Office Manager: The person in charge of such duties;
XXIII. Consular Officer:
Any person, including the head of a consular post, entrusted in that capacity with the exercise of consular functions, and

107 bar code

XXIV. Commission Staff: The Commission of the Mexican Foreign Service Personnel, a collegial body responsible for hearing any matter relating to the Foreign Service.

ARTICLE 2. Applies to Foreign Service
I. Promote and safeguard national interests in foreign states and international organizations and meetings in Mexico involved;
II. Protect, in accordance with the principles and norms of international law, the dignity and the rights of Mexicans abroad and perform actions to meet their legitimate claims;
III. Maintain and develop relations between Mexico and the members of the international community in all aspects such links within the jurisdiction of the State;
IV. Intervening in the conclusion of treaties;
V. Caring for the fulfillment of the treaties to which Mexico is a party and the obligations
appropriate international;
VI. Ensure the country's prestige abroad;
VII. Participate in any regional or global effort tending to the maintenance of peace and
security, the improvement of relations between states and to promote and preserve a just international order and equitable. In any case, will serve primarily national interests;
VIII.
Promote awareness of national culture abroad and expand the presence of Mexico
in the world;
IX.
To gather information abroad that may be of interest to Mexico, and spread in the
external information that contributes to a better understanding of the national situation and
X.
Contribute to improving the economic integration of Mexico in the world;
XI. Allocate income received for services provided for in Articles 20, 22 and 23 of the Federal Law, provided by any consular representation abroad to integrate a fund whose purpose is to cover, subject to authorization from the Ministry of Foreign Affairs, the expenses related to the activities and programs mentioned below, in terms of the Rules of the Mexican Foreign Service Act: Repatriation Program vulnerable people care and legal advisory and consular protection, visits to prisons and detention centers;

attention telephone, safety campaign to the migrant; mobile consular services, consular services in general,

Bar code 108

and customer service. Cover expenses in accordance with the preceding paragraph shall be made in accordance with the general operating rules to be established by the Ministry of Foreign Affairs, with the approval of the Ministry of Public Service, and

XII. Other features that point to the Foreign Service this and other laws and regulations, and treaties to which Mexico is a party.

ARTICLE 3. The Foreign Service is comprised of career staff, temporary staff and persons treated and understand the diplomatic-consular branches, technical and administrative.

ARTICLE 4. The diplomatic-consular branch comprises the following ranges:

I. Ambassador;

II. Minister;

III. Director;

IV. First Secretary;

V. Second Secretary;

VI. Third Secretary, and

VII. Diplomatic Attaché.

ARTICLE 10. Overseas, Foreign Service members perform their duties either on a diplomatic mission, consular posts, special missions and delegations to international conferences or meetings. The Secretariat shall establish the terms of accreditation of personnel assigned abroad, in accordance with international law and practice.

ARTICLE 19. Without prejudice to what is provided in section III of article 89 of the Constitution of the United Mexican States, the appointment of Ambassadors and Consuls General will make the President, preferably between career officials increased competition, rank and seniority in the diplomatic-consular branch. Whether a career civil servant is appointed Ambassador or Consul General, the President may remove freely under the terms of Section II of Article 89 of the Political Constitution of the Mexican United States, but that will not affect your status as career staff, unless the separation occurs in the terms of Section II of Article 57 of this Law

ARTICLE 20. To be appointed Ambassador or Consul General is required to be Mexican by birth and not have another nationality, in full enjoyment of their civil and political rights, be over 30 years old and gather sufficient merit for the effective performance of their duties . The Mexicans by birth to another State considers as its nationals, shall submit the certificate of Mexican nationality and waiver of the other nationality.

109

BARCODE

ARTICLE 20. To be appointed Ambassador or Consul General is required to be Mexican by birth and not have another nationality, in full enjoyment of their civil and political rights, be over 30 years old and gather sufficient merit for the effective performance of their duties . The Mexicans by birth to another State considers as its nationals, shall submit the certificate of Mexican nationality and waiver of the other nationality.

RULES OF THE MINISTRY OF FOREIGN AFFAIRS
ARTICLE 1. The Secretariat is responsible for the functions and the dispatch of business expressly entrusted to the Constitution of the United Mexican States, the Organic Law of Federal Public Administration, the Mexican Foreign Service Act, the Act on the Conclusion of Treaties The Law of International Cooperation for Development and other laws and regulations, decrees and orders issued concerning the President of the United Mexican States.
ARTICLE 2. Corresponds to the Secretariat:
I. Run foreign policy of Mexico;
II. To promote, encourage and coordinate actions outside the agencies of the Federal Government in accordance with the powers to each appropriate;
III. Direct the Mexican Foreign Service;
IV. Participate in all treaties, agreements and conventions to which the country is party, and
V. Monitor compliance with the objectives set out in the Programme for International Development Cooperation.
ARTICLE 3. The Secretariat will conduct its activities in a schedule. To this end, each program should specify the share corresponding to the administrative units of the Secretariat, its decentralized bodies and diplomatic and consular representations, taking into account the guidelines of the National Development Plan and the policies, priorities and modalities for the achievement of objectives and goals dictate the Federal Executive.
ARTICLE 4.
The representations of Mexico abroad be administratively of the Secretariat in terms of the Mexican Foreign Service Act and its Regulations. Holders developed in coordination with the secretariats their work programs and budget needed for implementation; also are responsible for compliance with the objectives and work programs established and the application of the resources they are authorized.

111 775

Representations administer the human, material, financial and computer assigned to them in accordance with the guidelines in the area of competence issued general directions of the Administrative Office.
ARTICLE 5. In front of the Foreign Ministry will be a Secretary of the Office, holder thereof who, for the relief of the matters within its competence, will be assisted by the following administrative units:
A) Undersecretariat of Foreign Affairs;
B) Undersecretary for North America;
C) Undersecretary for Latin America and the Caribbean;
D) Undersecretary for Multilateral Affairs and Human Rights;
E) Administrative Office;
F) (Repealed DOF September 27, 2011)
G) Legal Counsel;
H) DGs:
I. Protocol;
II. Policy Coordination;
III. Social Communication;
IV. To Africa and Middle East;
V. For Asia-Pacific;
VI. For Europe;
VII. For North America;
VIIa. Special Affairs;
VIII. Protection of Mexicans Abroad;
IX. Consular Services;
X. Project Mesoamerica Integration and Development;
XI. For Latin America and the Caribbean;
XII. From American Regional Organizations and Mechanisms;

XIII. For Global Issues;
XIV. For the United Nations;
XV. Human Rights and Democracy;
XVI. Liaison with Civil Society Organizations;
XVII. Foreign Service and Human Resources;
XVIII. Programming, and Budget Organization;
XIX. Legal Affairs;
XX. Real Estate and Material Resources;
XXI. Of delegations;
XXII. Information Technology and Innovation;
XXIII. Educational and Cultural Cooperation;
XXIV. (Repealed, D.O.F. September 27, 2011
XXV. Of International Cooperation and Economic Development;
XXVI. Cooperation and Bilateral Economic Relations;
XXVII. Scientific and Technical Cooperation, and
XXVIII. Diplomatic History of the Acquis.
I) (Repealed, D.O.F. October 12, 2012)
II. Matías Romero Institute;
III. The Institute for Mexicans Abroad, and
IV. The Mexican Agency for International Development.
J) Mexican Sections of the International Commissions Boundary and Water:
I. Between Mexico and the United States, and
II. Between Mexico and Guatemala, and Mexico and Belize.
K) The Delegations.
L) The Secretariat will have an internal oversight body, to be governed in accordance with Article 52 of this Regulation.

REGULATION OF MEXICAN FOREIGN SERVICE ACT

ARTICLE 1. This ordinance is to regulate the Mexican Foreign Service Act.
Corresponds to the Ministry of Foreign Affairs the implementation of the provisions of the Act and this Regulation.
ARTICLE 2. The definitions contained in Article 1-bis of the Act shall apply to this Regulation. Additionally, the term:
I. Area: the place where the member provides services Foreign Service, whether in a representation abroad or in the administrative units of the Secretariat in Mexico, and,
Il. Head or holder of Representation: the person appointed under the Act to lead an embassy, permanent mission or consular post.
ARTICLE 3. The staff of career Foreign Service comprises:
I. Those who enter the diplomatic-consular branch in accordance with Articles 28, 31 and 34 of the Act;

II. Those who enter by examination for administrative technical branch, according to the provisions of Articles 33 and 35 of the Act;
III. Those who entered the Foreign Service as a career staff in accordance with legal regulations that were in force previously with the Act, and

IV. Those that re-enter the Foreign Service following the procedure referred to in Article 36 of the Law

For the purposes of Articles 4 and 5 of the Act, the management ranks, places, positions and structure of the Foreign Service shall be subject to a general catalog including positions in Mexico and abroad to its members can aspire.

This catalog contains the description of each position, the degree of responsibility involved in your occupation profile is required to occupy, the level of rank in the Foreign Service and the minimum age required to forward to the same.

The General Catalogue of Posts will be updated and published during the month of December each year.

ARTICLE 16. The performances depend on the Federal Executive and address and

will be managed by the Secretariat. Only the latter shall take or transmit orders or instructions. The performances will be contacted Mexican authorities through the Secretariat, except in cases where the same rules apply or authorize directly manage.

ARTICLE 17. For purposes of seniority within the diplomatic missions and fren

you to the authorities of the host country will invariably be taken into account the range of members of the Foreign Service and the date of arrival at the assignment in each of the ranges. Accreditation to the respective authorities, shall comply

following order of precedence to internal:

I. Ambassador and Permanent Representative;

Il. Head of Chancery or Alternate Representative;

III. Military, naval and air; ministers or career counselors and assimilated in these ranges;

IV. Secretaries career and assimilated into these ranges and military, naval and air attachments, and

V. Staff technical-administrative branch.

The following points have become relevant in relation to the judicial nature of the responsible authority

- the President of the Republic can freely name and remove the Secretary of State, Ambassadors, and Consul General, direct foreign policy, and enter into international treaties, as well as, terminate, denounce, suspend, modify, amend with no reservations and formally interpret the declarations as to these subjecting them to the appropriate approval by the Senate
- In the handling of foreign policy the federal executive power shall observe the principles of auto determination of the peoples to no intervention, to peaceful resolution of controversies, the prescriptions against the use or threat of use of force in the international foreign relations, the judicial equality among states, international cooperation for the development and the respect and the protection of the promotion of human rights, and the fight for peace and international security. The Senate of the Republic shall have this exclusive jurisdiction to analyze foreign policy as presented by the Federal executive basing its self in the annual reports that are rendered. Moreover it proves international treaties and diplomatic conventions that the president may subscribe to as well as his decision to terminate, to announce, suspend, defend, amend, with no reservations and declare interpretive reformulations as to these as well as ratifies and the naming among others of the ambassadors and Consul Generals.

- The Federal Public Administration shall be centralized and para-statal in accordance to the Organic Law as issued by the Congress which shall distribute the businesses of administrative order of the federation and shall be in charge of

the Secretary of State and will define the general basis for the creation of state-owned entities at the end extent of the intervention of the Federal Executive and its separation.

- The Office of the President of the Republic, Secretary of State and the Judicial Counsel to the Federal Executive shall integrate the Centralized Public Administration.
- The Secretary of State shall have equal rank among them, therefore, there shall not be any preeminence among them with a prejudice to the precedent and by agreement with the Secretary of the Republic, the Secretary of Governance shall coordinate the actions with the Federal Public Administration in order to accomplish its agreements and orders.
- Heading each Secretary there shall be a Secretary of State whom in order to take care of the issues within jurisdiction shall have a sub secretaries Main Official, director of sub directories, chief, sub chiefs, and Department Heads as well as Section Heads and other functionaries that shall be established pursuant to the bylaws respective to each position.
- In order to perform the functions of issues of the Administrative Orders, the Executive Power of the Union shall have, among others, the Secretary of Foreign Relations.
- The Secretary of Foreign Relations shall direct Foreign Service in its diplomatic and Consulate aspects in accordance with the Mexican Law of Foreign Service and through the agents of the service shall labor abroad for the good name of Mexico and provide protection to the Mexicans.
- The Mexican Foreign Service is a permanent body state functionaries charged specifically with representing it abroad and are responsible for the faithful execution

of the Mexican exterior policy in accordance with the rules and principles established by the Political Constitution of the United States of Mexico.

- The Mexican Foreign Service is dependent upon the Federal Executive, its direction and administration shall be under the charge of the Secretary of Foreign Relations in accordance with what is set forth in the Organic Law for the Federal Public Administration and the rules of foreign policy as established by the President of the Republic, in accordance with the jurisdiction granted to him by the very Federal Constitution.
- The Departments of organs of the Federal Public Administration, in accordance with what is set forth in the Organic Law for Federal Public Administration shall maintain coordination with the Secretary of Foreign Relations insofar the performance of acts abroad.
- It falls upon the Foreign Service to promote and safe keep the national interests in the international forum bodies in which Mexico may participate; protect in accordance with the principals and norms of international law, the dignity and rights of the Mexicans abroad and undertake those acts appropriate to satisfy their legitimate complaints; and to participate in all regional or global efforts that have a tendency to keep the peace and international security, the betterment of the relationships among the states and promote and preserve just and equitable international order at all times and take into account national interests
- Mexican Foreign Service shall be integrated by career personnel, temporary personnel and personnel assimilated into it and comprises the diplomatic, consular and technical administrative branch.

- The Diplomatic Consular Branch is comprised of the ranks of Ambassador, Consular, First Secretary, Second Secretary, Third Secretary, and Diplomatic Attaché.
- The member of Mexican Foreign Service shall discharge their functions in the diplomatic mission, consular representation, special missions or delegations, or conference or international reunions indistinctively.
- The designation of Ambassadors and General Consuls shall be done by the President of the Republic preferably from among career functionaries with best competences, category, and time in service in the diplomatic consular branch. Without regard to whether a career functionaries is designated an Ambassador or General Consul, the executive shall be able to dismiss liberally.
- In order to be designated Ambassador or General Consular it is required to be Mexican by birth and not have any other nationality, to be in the full enjoyment of the civil and political rights, be older than 30 years of age, and to display sufficient merits so as to ensure the efficient discharge of the charge.
- It falls upon the Secretary of Foreign Relations, among others to execute the foreign policy of Mexico and to direct the Mexican Foreign Service.
- The representations of Mexico abroad shall depend administratively upon the Secretary of Foreign Relations in accordance with the law of Mexican Foreign Service and its bylaws.
- As head of the Secretary of Foreign Relations there shall be a desk secretary, the head of which to secure issued of jurisdiction shall avail himself of the administrative unites of the Mexican Foreign Service

- It befalls upon the Secretary of Foreign Relations, the application of the bylaws of the Mexican Law of Foreign Service and its Bylaws.
- The representations of the Mexican Foreign Service shall depend upon the federal executive and its direction and administration shall be the responsibility of the Secretary of Foreign Relations. Only this latter shall have the task of transmitting orders of instructions, the representations shall communicate with the Mexican authorities through that unit.

On this basis it is obviously patent that the arguments for unfoundedness set forth by the responsible functionaries at issue and the Aggrieved Third Party are ineffective insofar Diplomatic Note 07654 of November 4, 2011, does constitute an act of an authority for the effects of an amparo trial having been issue by the Ambassador extraordinary of the united States of America whom depends structurally and functionally on the Secretary of Foreign Relations which in turn is a part of the Federal Public Centralized Administration that being an auxiliary structure to the executive power as set forth by Article 80, 89, Fractions II, III and X, and Y of the Political Constitution of the United States of Mexico, 1, 26 and 28 of the Organic Law for Federal Public Administration.

The prior argument is set forth by virtue of the fact that the Secretary of Foreign Relations directs the foreign service in its diplomatic and consular aspects in accordance with the Mexican Foreign Service Law and through the services agents being the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America being that Ambassador Extraordinary and Plenipotentiary of Mexico in the United States is part of the organization and administrative structure of the executive of the union without regard of whether he is located abroad being that the Mexican Foreign Service is

a permanent part of the functionary of the state specifically charged with representing it abroad and it responsible to execute Mexican Foreign Policy in accordance with the rules and regulations established by the Political Constitution of the United States of Mexico.

This means that even though there is a responsible authority headquartered abroad it is likewise true it is subordinate to the orders and instructions issued by the President of the Republic and the Secretary of Foreign Relations being that the Mexican Foreign Service depends upon the Federal Executive, its direction and administration are the duty of the Secretary of Foreign Relations in accordance with what is set forth by the Organic Law for Federal Public Administration and the Foreign Policy Guidelines that the President of the Republic may set forth in agreement with the powers confirmed by the very Federal Constitution. As a consequence, the existence of the entity at law, such as is the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America who nevertheless issues the diplomatic note at issue to a different authority. In reality he establishes a relation of supra subordination with the individual, meaning the complainants, when he concentrated his petition for jurisdictional immunity on the destruction of a civil act filed by the previously referred to complainants meaning the trial identified with the Docket Number 3:11-CV-0133-AWT pending before the District Court of Connecticut of the United States of America, favoring their defendant (and now Aggrieved Third Party). Since one should not lose sight of the fact that the Petition for Immunity was requested precisely for the civil action filed by the complainants meaning it found its source in the complaint that was filed and the responsible authority issued the note at controversy

With the sole purpose that Aggrieved Third Party note be subjected to trial. Likewise, the previously cited judicial relationship between the content of the note at issue and the civil trial filed by the claimants has its origin in law. This means, in the various legal dispositions which we have already set forth, granting upon the entity and administrative power the exercise of which is un-renounceable being the source of the power public and being that on the basis of that relationship Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America, issued a unilateral act such is the Diplomatic Note 07654 of November 4, 2011 through which this judicial situation of the complainants was created or modified before him or by him effecting the legal sphere when its requested the intervention of foreign authorities so that the civil trial filed by his nationals be terminated favoring the defendant in that trial, that being the Aggrieved Third Party. Finally, it is necessary to point out that the diplomatic note at issue meet all of the conditions set forth to be considered an act of authority for all effects of an amparo trial, among them, that at the moment of his issuance the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America was not required to seek or go before judicial organs nor to request the agreement and the will of the complainants. From there it is also unfounded the grounds for dismissal at issue, it is applicable to the aforesaid considerations due to its continent reach jurisprudence 2A/J. 1644/2011, set forth by the Second Chamber of the Supreme Court of the nation's Supreme Court of Justice found on page 1089, Tom XXXIV, September 2011 in the Judicial Weekly of the Federation and its Cassette 9th Epoch, the header and text of which reads as follows:

> AUTHORITY FOR THE EFFECTS OF JUDGMENT UNDER. DISTINCTIVE NOTES. The notes one authority to distinguish effects of amparo are: a) The existence of a body of fact or law that establishes a relationship of subordination supra to an individual, b) That this relationship has its source in the law, which gives the body an administrative authority, the exercise is irrevocable, the public be the source of these powers; c) that, at the relationship issue through unilateral acts which create, modify or extinguish itself or before it, legal situations affecting particularly the legal sphere, and, d) to issue such acts do not require recourse to the courts or required the consensus of the will of the person concerned.

In support of the aforesaid, it should be mentioned that it corroborates the denial of the grounds for dismissal set forth by the Responsible Authority and the Aggrieved Third Party on the basis that the representation of the Mexican Foreign Service depend upon the Federal Executive for their direction and their administration is the responsibility of the Secretary of Foreign Relations, and onto the latter corresponds to give or transmit instructions.

For this reason, the these invoked by the responsible authority in his justified report is inapplicable, firstly because it is an isolated criteria from a Collegiate Circuit Tribunal (not even citing the issuing Court) which does not constitute Jurisprudence insofar articles 192 and 193 of the law of Amparo. Moreover the text of that thesis confirms the fact that Diplomatic Note 07654 of November 4, 2011 is an act of authority by virtue of the fact that it specifically states that such act is so "… when a specific public entity acts in the name of the States.." that being the case when the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America stated that– pages 255

it acted in the name of the Government of Mexico, as can be seen from the following text:

> "Insofar the claimed acts set forth by the complainants in their amparo lawsuit, it is only TRUE that through Diplomatic Note 07654 of November 4, 2011, the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America transmitted to the Department of State the position of the Government of Mexico as to any internal proceedings that may injure its sovereignty, on the basis of judicial equality among states, in accordance with Article 89, fraction X, of the Political Constitution of the United States of Mexico and Article 1o of the Mexican Foreign Service Law.."

In that sense, it in uncontroverted that the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America could not have known that it is an authority for purposes of an amparo trial, if at all times has so expressly recognized having acted on behalf of the Mexican State, moreover, he holds public office that forms part of the organization structure of the Secretary of Foreign Relations, and, additionally, must have sworn to uphold the Political Constitution of the United States of Mexico and the laws that derive from it, in accordance with what is set forth in Article 128 of the Magna Carta, that literally reads:

> Article 128. All official public, without exception whatsoever, before taking possession of his commission, shall swear to uphold the constitution and the laws that derive from it

In this way, if the position held by the responsible functionary is part of the Federal Centralized Public Administration, due to its belonging to a State Secretariat, necessarily prior to having taken office, the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America had to have sworn before the Senate of the Republic to uphold the Constitution and the laws that derive from it, in accordance with what is set forth by

Articles 76, fraction II, and 89 fraction III, of the Political Code, which translates into the fact that his actions are vested with authority and with all necessary attributes that characterize any act of authority for purposes of an amparo trial. Hence, the inefficacy of the grounds for dismissal set forth by the Responsible Authority in his justified report and the Aggrieved Third Party in his argument brief.

Following such reflections, it should be emphasized that the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America in his justified report expressly confessed that for matters concerning an amparo trial he is an authority, statement which is a complete proof as against him in accordance with what is set forth in Article 200 of the Code of Federal Civil Procedure, in supplemental application to the law of Amparo (pages 274 through 278), as can be seen in the e following:

> ... In accordance with the constitutional provision reproduced, the Federal Executive appointed Mr. Arthur Saruhkan Casamitjana as Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America and the appointment was ratified by the Senate on February 20, 2007, as emerges from the publication of the Parliamentary Gazette on, therefore, it is clear that it has legal authority to sign the act in question, being the person responsible for representing the Mexican state and protect their interests in the United States of America and faithfully the principles that the Constitution provides for the implementation of foreign policy, on the grounds that it was appointed by the Chief Executive, ratified by the Senate, and have obtained the consent of the United States of America, assuming their duties after he presented his credentials in that country. …In that vein, it is clear that the Ambassador of Mexico in the United States of America have legal authority to issue a diplomatic note 07654, of November 4
>
> 123 [bar code]

> , 2011, for being the Head of Mission, is the person charged by the Mexican State to act in that capacity, contributing to the fulfillment of one's duties Mexican Foreign Service Act instructs the Service to implement foreign policy, and to ensure national interests in foreign states, maintain and foster relationships of our country with the international community, is confirmed with the provisions of articles 1, 1-bis, sections IX and XIII, 2, sections I and III, and 41 of the last sort in date …

On the other hand, it should be noted that the jurisprudence invoked in page 270 of the justified report is inapplicable, this is, the one identified as docket 49, set forth by the Second Chamber of the prior integration of the Supreme Court of the Nation, the header reading: "UNSUITABILITY, CAUSAL, XVIII FRACTION UNDER ARTICLE 73 OF THE LAW UNDER."

The preceding is set forth by virtue of the reasoning set forth herein being that these arguments make clear that the grounds for dismissal brought forth both by the responsible authority as well as the public prosecutor are not well grounded, additionally, the thesis alleged by the responsible ambassador at issue in his justified report is completely generic, and has not relation with any specific basis for dismissal or denial of proceeding of the constitutional act, being that fraction XVIII of article 73 of the law of amparo should be read in relation with any other legal precept that specifically provides for the dismissal or denial of the trial for guarantee in concrete cases, thus, generic and dogmatic references to portions of a rule are irrelevant, and thus groundless.

The thesis set forth by prior integration of the Nation's Supreme Court of Justice meeting in plenary session, published in page 75, volume 175-180, First

Part of the Judicial Weekly of the Federation, seventh epoch, the content of which reads as follows:

> UNSUITABILITY, CAUSE FOR, SET FORTH IN FRACTION XVIII OF ARTICLE 73 OF THE LAW OF AMPARO. The opinion expressed by the Second Chamber of the Supreme Court, that the Full Court endorses, argues that Article 73 Section XVIII of the Law of Amparo, which establishes the inadmissibility of the amparo in other cases in which the same results from a provision of the law does not establish a specific cause of inadmissibility, but points, generically, which operates as resulting from the application of one or more different legal provisions of Article 73 itself, in these conditions, for application of this fraction should be related to other legislation that determines the invalidity of judgment in a particular case.

Moreover, it should be noted that one of the grounds due to which all of the grounds argued by the responsible authority in his justified report and by the Public prosecutor, in his petition, as well as by the Aggrieved Third Party in his argument brief, is based on the grounds that to deny the Amparo Petition would mean to infringe upon the human rights of the Petitioners, specifically as to the issues of access to court and the right to an effective legal remedy, since, otherwise, they would find themselves defenseless , there being no jurisdiction that can examine the constitutionality of diplomatic note 07654, of November four of two thousand eleven, addressed to the State Department of the United States of America; Ambassador Extraordinary and Plenipotentiary of Mexico in that nation.

On the basis of the entrance into force of the Second and Third paragraphs of Article 10 of the Political Constitution of the United States of Mexico, modified through a decree published in the Official Daily of the Federation on June tenth of 2011, a diffused control

of conventionality is authorized, with a pro-person interpretation being recognized and institutions of human rights set forth through the international treaties entered into by the Mexican State are recognized, as can be seen in the following transcription:

> Article 1 of the Constitution of the United Mexican States.
> ARTICLE 1. In the United States of Mexico all persons shall enjoy the rights recognized by the Constitution and international treaties to which the Mexican State is a party and the guarantees for their protection, the exercise of which may be restricted or suspended, except in the cases and under the conditions established by this Constitution.
> The rules on human rights shall be interpreted in accordance with the Constitution and international treaties favoring stuff all the time to people the broadest protection.
> All authorities, within the scope of its powers, have the obligation to promote, respect, protect and fulfill human rights in accordance with the principles of universality, interdependence, indivisibility and progressiveness. Consequently, the State must prevent, investigate, punish and remedy human rights violations in the terms established by law.
> Slavery is prohibited in the United States of Mexico. Foreign slaves entering the country reach, by this fact alone, freedom and the protection of the laws.
> All discrimination motivated by ethnic or national origin, gender, age, disability, social status, health status, religion, opinions, sexual preference, marital status or any other that violates the dignity human and is intended to nullify or impair the rights and freedoms of individuals.

In this way, all of the county's authorities, within the scope and field of their authority, are obliged to uphold not only those human rights contemplated in the Federal Constitution of the Republic, but also those found in the international instruments entered into by the Mexican State, adopting that interpretation that is more favorable to the human rights at issue, this being known as the doctrine of the Pro-person principle.

On the other hand, Article 17 of the Political Constitution of the United States of Mexico states expressly as follows:

> ARTICLE 17. No person may take the law itself, or violence to claim their right.
> Everyone has the right to justice is administered by courts that will be expedited to impart on the timing and terms established by law and issue its rulings in a prompt, thorough and impartial. Your service will be free, are, accordingly, prohibited court costs.
> The Congress shall issue laws governing class actions. Such laws shall determine the application materials, court proceedings and damage repair mechanisms. Federal judges know exclusively on these procedures and mechanisms.
> The laws provide for alternative means of dispute resolution. In criminal matters governing the application, ensure the repair of the damage and establish the cases in which judicial supervision is required.
> The decisions to halt oral proceedings shall be explained in open court following a summons to the parties.
> Local and federal laws establish the means necessary to ensure the independence of the courts and the full implementation of its resolutions.
> The Federation, the states and the Federal District will ensure the existence of a public defender service quality for the population and ensure the conditions for a professional career service for defenders. Perceptions of defenders may not be lower than those that apply to prosecutors.
> No one can be imprisoned for debts of a purely civil.

Thus, the above cited constitutional numeral provides as a fundamental rights effective legal protection, meaning, the governed can be a party to a legal proceeding, and, secondly, the right possessed to obtain a judgment as to the merits of the issue brought forth and its rightful execution, which should be

Prompt, complete, and impartial which is intimately related with the principles of due process contained in Article 14 of the Magna Carta and therefore, for its recent execution to the right initially mentioned there should be granted the opportunity to defend against all act that is depriving of liberty, property, possessions, or rights which means moreover that all essential formalities for procedures shall be met.

Hence access to an effective protection simple and fast through which judges and tribunals function in an effective the execution of human rights of all persons that come before to seek it to start anew hence access to an effective remedy simple and fast through which judges and tribunals protect in an efficient manner the exercise of human rights of all the persons that so request it substantiated, with conformity to all the rules of due legal process is a consequence of the fundamental right to effective legal protection inasmuch as it guarantees the achievement of prompt justice complete and impartial keeping with the formal requirements that the very constitutional consecrates to the benefit of all persons that fall below this constitution.

Now, Article 25 of the American Convention on Human Rights sets forth the following:

> Article 25 of the American Convention on Human Rights:
> ARTICLE 25. Judicial protection.
> 1. Everyone has the right to simple and prompt recourse, or any other effective remedy before judges or competent court for protection against acts that violate his fundamental rights recognized by the Constitution, the law or by this Convention, even though such violation may have been committed by persons acting in an official capacity.
> Two. The States Parties undertake:
> a) to ensure that the competent authority provided for by the legal system of the state will decide on the rights of any person claiming such a remedy;
> b) to develop the possibilities of judicial remedy;
> c) to ensure compliance by the competent authorities of any decision that has such remedies.

From what is transcribed above it can be seen that human rights and fast and effective remedy as recognized in Article 25 of the American Convention

on Human Rights necessarily involves that the instruments or procedural means destined to guarantee human rights be effective.

In this way and in accordance of this principle the inexistence of an effective remedy against violations of human rights as recognized in the well cited American Convention constitutes a transgression by the state that is a party thereto.

In the respect the Inter-American Court of Human Rights has indicated that in order for an effective remedy to exist it is not enough that it be overridden for in the constitution or that it be formally admissible but what is required is that to be truly effective to determine whether a violation of human rights has occurred and to provide the necessary remedy.

It is illustrative of the determination set forth before where applicable the jurisprudence issued by the Inter-American Court of Human Rights in the case of Hilaire, Constantine and Benjamin among others against Trinidad and Tobago Merits, Reparations, and costs, sentence of the 21 of June 2001 series C, number 94, the header and text of which reads as follows:

> RIGHT TO JUDICIAL PROTECTION. POSITIVE DUTY TO REMOVE OBSTACLES AND OBSTACLES TO REFRAIN FROM PUTTING CASH ACCESS BODIES OF DELIVERY OF JUSTICE. The Court has established that states have, as part of their general duties, a positive duty to guarantee with respect to individuals under its jurisdiction. This means taking all necessary measures to remove the obstacles that may exist for individuals to enjoy the rights recognized in the Convention. Therefore, the state which tolerates circumstances or conditions that prevent individuals access resources designed to protect their rights, constitutes a violation of Article 1.1 of the Convention [...] 515 (Cantos Case Vs. Argentina. Merits, Reparations and Costs. Judgment of November

> 28, 2002., Series C No. 97). According to Article 8.1 of the Convention [e] everyone has the right to a hearing, with due guarantees and within a reasonable time by a court or competent, independent and impartial tribunal, previously established by law, in the substantiation of any criminal charge against him or for the determination of his rights and obligations of a civil, labor, fiscal or any other nature. This provision of the Convention establishes the right of access to justice. It emerged that States shall not obstruct people who go to the judges or the courts to have their rights determined or protected. Any rule or measure of internal order that imposes costs or otherwise the individual access to the courts, and that is not justified by the reasonable needs of the administration of justice, should be understood contrary to Article 8.1 of the Convention (Cantos Case Vs. Argentina. Merits, Reparations and Costs. Judgment of November 28, 2002., Series C No. 97, Case of Hilaire, Constantine and Benjamin et al v. Trinidad and Tobago. Merits, Reparations and Costs. Judgment June 21, 2002., Series C No. 94).

In that sense it is patent that whereto be declared the eventual lack of foundation of the amparo trial it would constitute a violation to human rights to an effective judicial remedy since it would limit the access of the complainants to the judicial guarantees being that they would have no means to challenge or question the constitutionality of Diplomatic Note 07654 of November 4, 2011, addressed to the Secretary of State of the United States of America and issued by Ambassador Extraordinary and Plenipotentiary of Mexico in that nation.

This on top of the fact that it would authorize implicitly the issuance of acts on the part of any of the Mexican Ambassadors who the scrutiny of whom would forbid even by the judicial power of the federation something which is inconceivable in a state the foundations of which correspond to a constitutional democracy built upon the principle of the division of power and that recognizes that the acts could

of the acts of the legislative power the and executive can be reviewed judicially.

Moreover, for reasons of judicial security the complainants should be guaranteed access to justice to challenge acts that they believe touch and effect their judicial sphere such as is the diplomatic note at issue for which the responsible authority requests expressly and implicitly the termination of a civil trial brought forth by the complainants favoring one of the parties in the mentioned civil lawsuit.

Consequently this incontrovertible that the trial of amparo is the materialization of human rights to effective legal change as recognized by both the political institution of the United States of Mexico as well as the international treaties (Act of San Jose) being that if that were ever to return pretending that the jurisdictional immunity set forth by the third party prejudice it in and of itself would constitute a violation of human rights.

Thesis 1ACCLXXVII/2012becomes relevant to these foregoing considerations for its content and reach as set forth by the First Chamber of the Supreme Court of Justice of the nation Page 526 Book XV December 2012 Tom 1 in the weekly judicial of the federation and its cassette 10th Epoch which header and text state the following:

> HUMAN RIGHT TO A JUDICIAL REMEDY CASH. NOT BE CONSIDERED EFFECTIVE REMEDIES BY THE TERMS AND CONDITIONS OF THE COUNTRY OR THE PARTICULAR CIRCUMSTANCES OF A PARTICULAR CASE, are illusory. The aforementioned human rights is closely linked to the general principle regarding the effectiveness of the instruments or means designed to ensure the rights recognized by the Constitution of the United Mexican States or international instruments in the field. However, the lack of an effective remedy against violations

> of those rights is a violation of the human right to an effective judicial remedy. In this sense, for there the appeal, it is not enough to provide for the Constitution or the law, or that it be formally recognized, but rather it must be truly effective in establishing whether there has been a violation of human rights and , where appropriate, provide for remedy. So it cannot be considered effective remedy which the general conditions of the country or even the circumstances a particular case, are illusory, that is, when its usefulness has been demonstrated in practice, either because the judiciary lacks the necessary independence to render impartial decisions, lack the means to enforce decisions that are issued, are justice denied, the decision is delayed unreasonably or halt the alleged victim access to legal recourse.

In this light the posture taken by the responsible authority and the prosecutor at issue has no judicial posture insofar it alleges that the constitutionality of the diplomatic letter should not be examined on the false argument that it had judicial effects abroad fulfilling its mandate and that the complainants do not have judicial interest to challenge a political act in the field of international relations. Inasmuch as to sustain such consideration would mean to negate the human rights consecrated in Article 17 of the Political Constitution of the United States of Mexico which provides that all persons should have the right to justice administered by the tribunals in an expedite, prompted, and complete fashion.

Also, it would infringe on Article 25 of the American Convention on Human Rights which establishes that all persons have the right to an effective and fast recourse or to any other effective recourse before the competent judges and tribunals and that they be protected against those acts that violate the fundamental rights as recognized in the constitutional law or their aforesaid conventions.

From the foregoing it's noted that judicial authorities have an obligation to resolve those conflicts that are brought before them by the parties, and to do so in an integral and complete form, without and unreasonable and unproductive interpretations that impede or hinder hearing the trial in the merits providing true protection of the law.

Contrary to what was set forth in the justified report at issue, and in the motion filed by the public prosecutor of the federation, as well as in the Argument Brief of the Aggrieved Third Party, while it is true that the empower law is in its actual form does not expressly provide for the possibility that individuals seek the aid of the tribunals to impede or repair a violation of their human right it is also true that through the constitutional reforms in the issue of human rights and amparo law published I the Official Daily of the federation on the 6th and 10th of June, 2011, respectively, the breath of protection provided by the amparo trial was widened expressly including that of human rights recognized and the guarantees granted by their protection in the federal constitution as well as international treaties to which the state of Mexico is a party thereto. Moreover, the process for the access to courts for those constitutional trials was simplified by ruling that persons can bright forth the amparo complaints those persons who claim to be the holders of a legitimate interest or right, whether individual or collective, or by virtue of their special position before the law.

In addition to what's set forth above, the fact that the changes set forth at the constitutional level are not yet reflected in the Amparo law, does not authorize judges to ignore the will of the Reforming Power, and hence, they should integrate the applicable procedural rule so as to bring it in line with the new framework in the issue of human rights, as to act contrariwise would leave the effectiveness of the fundamental text in the hands of the legislative, something that is inconceivable.

133 [bar code]

Consequently, the amparo trial, in keeping with constitutional articles 103 and 107, as amended, can be considered as that effective recourse referred to in article 25 of the American Convention on Human Rights, since it grants the power to a judicial authority to, through the aforementioned amparo trial that has simple means of access, to effectively resolve those conflicts brought before it by persons o this nation or foreigners, as against any act or omission on the part of an authority that may violate his human rights or the criteria established in the judgments issued by the Inter-American Court of Human Rights,

It should be added that international law on human rights has developed standards as to the law providing for judicial recourse and others instruments that should be effective and ideal to deal with allegations of injuries to fundamental human rights.

Hence, the obligation on the part of the States is not only negative – not to deny or impede access to these remedies – but also fundamentally positive, to establish the institutional apparatus so that all individuals may have access to those remedies.

Hence, the States should remove regulatory, social, and economic obstacles that impede or limit the possibility to access to justice. From this, it the constitutional and International obligation of this District Court to analyze the act of an authority (the diplomatic note at issue), as to which there exists no guarantee nor conditions that ensure that it will be examined in the north American jurisdiction, in the first place because the action in controversy was issued by a Mexican, and not an American – authority, circumstance with by itself would make difficult its constitutional scrutiny by a foreign Court, and, additionally, it is a well-known fact that as per Article 88 of the Federal Code of

of Civil Procedure in supplemental applications to the Law of Amparo that the United States of America does not recognize, the jurisdiction of the Inter-American Court of Human Rights and hence does not recognize the compulsory nature of its bylaws and those consecrated in the related convention.

In that light it is evident that the claimants since they do not have an ideal mechanism to challenge an administrative act issued by American authority abroad can put forth an amparo trial against it and take into consideration that the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America forms a part of the Centralized Federal Public Administration and being that the act subject to this claim acquired definitiveness domestically since it is the complete posture of the Mexican government in that act in the sense of requesting jurisdictional immunity to the benefit of the Aggrieved Third Party and hence the termination of the civil trial filed by the claimants.

In that light it is obvious that the pretention brought forth both my the responsible authority, as well as, the public prosecutor and by the Aggrieved Third Party translates into a labyrinth of the denegation of justice since it has, as its intent, the diplomatic note at issued, not be examined in our country (amparo trial interact) nor in the North American jurisdiction under the argument that the foreign authorities already pronounced themselves insofar the request for immunity brought forth by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America.

This posture is unsustainable within the framework of the democratic order and system of human rights adopted by the Mexican state from June 2011 in which the respect for fundamental rights of the human being prevails without restriction and in which the efficacy of the legal recourse and the means to challenge are stressed such as the amparo trial.

Moreover, Article 1, second paragraph, of the Political Constitution of the United States of Mexico demands that the human rights be interpreter in accordance the very Magna Carta and the international treaties so as to favor, in the most ample manner, the persons. The foregoing is given that the proper interpretation means the obligation to analyze the content and reach of human rights when faced with the existence of two regulations, one diminishing or districting the right in any diverse fashion so as to elect the one most applicable to the concrete case at hand and that, on the one hand allows to define the framework for the interpretation of human rights, and on the other, grants a protective sentiment in favor of the human person as the existence of different parts possible solutions to the same problem obliges the option to that which most amply protects those rights. This implies seeking to recommend the legal remedy that consecrates the right in the most extensive fashion and contrary to that legal precept that is more restrictive when recognizing legitimate limitations that could establish the exercise of the same.

In that way the utilization of this principle of interpretation by itself yields, as a result, that where this amparo trial be declared not wee founded it would limit the access to judicial guarantees to the complainants (effective remedy) since they would no longer have the opportunity to challenge the constitutionality of the Diplomatic Note 06754 of November 4, 2011 issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America; by the violation of the human rights consecrated in Articles 10, 14, 14, 17, and 133 of the General Constitution of the republic and 25 of the American Convention on Human Rights. Hence, there also lies the inefficacy of the grounds for dismissal set forth by the parties.

The jurisprudence 1A.4/J.1074/2012 Francis 10A. set forth of the First Chamber of the Supreme Court of Justice of the nation found in Page 799 Book XIII of October 2012, Second Volume, in the Judicial Weekly of the Federation and its Cassette 10th Epoch is applicable in where it states the following:

> PRO-PERSON PRINCIPLE. SELECTION CRITERIA OF THE FUNDAMENTAL RULE APPLICABLE LAW. In accordance with the current text of Article 1 of the Constitution, as amended by Decree constitutional amendment published in the Official Journal of the Federation on June 10, 2011, in respect of fundamental rights, the Mexican legal system has two original sources: a) fundamental rights recognized in the Constitution of the United Mexican States, and b) all those human rights enshrined in international treaties to which the Mexican government is a party. Consequently, the rules from both sources are rules supreme Mexican law. This implies that the values, principles and rights that they embody must permeate all legal, all authorities forcing their application and in those cases where appropriate, to their interpretation. Now, assuming that the same fundamental right is recognized in the two supreme sources of law, namely, the Constitution and international treaties, the choice of the standard to be applied in matters of human rights criteria will serve encourage the individual or what has been called pro persona principle in accordance with the provisions of the second paragraph of Article 1 of the Constitution. According to the criterion of interpretation, if there is a difference between the scope or protection afforded by these different standards that should prevail sources representing greater protection for the person or involving less restriction. In this logic, the catalog of fundamental rights is not limited to the requirements of the Constitution, but also includes all those rights contained in international treaties ratified by the Mexican State.

Seventh, being that the grounds for dismissal or not well-foundedness invoked by the parties are found to be unfounded and

none others are found *sua sponte*. It is now appropriate to commence the analysis to the merits of the constitutionality of the act at issue. Without it being necessary to reproduce the concepts violations set forth of the complainants being that there is no legal requirement mandating or leaving them defenseless since it does not impede that their grounds for complaint be completely examined in accordance with the principle of accessibility that governs amparo judgments.

Jurisprudence 2A.4/J.58/2012 is applicable to this determination and as set forth by the Second Chamber of the Supreme Court of the nation found on Page 30 XXXI May of 2010 in the Judicial Weekly of the federation and its Cassette 9th Epoch which content is as follows:

> CONCEPTS OF VIOLATION OR INJURY. PRINCIPLES TO COMPLY WITH MATCHING AND COMPLETENESS IN STATEMENTS UNDER YOUR TRANSCRIPT IS UNNECESSARY. From the provisions of Chapter X members "from the judgments" first title "General Rules", the first book "From under overall," Amparo Act, no such obligation is noted for the judge to transcribe the concepts of violation or, where appropriate, the wrongs, to meet the principles of consistency and completeness in the judgments, as these principles are met when required subject to discussion points arising from the claim for protection or written expression of grievances, studies and gives the response, which should be linked and correspond to the legality or constitutionality approaches identified in the statement indeed relevant without introducing the different aspects that make up the litigation. However, there is no prohibition for such transcription, leaving to the discretion of the judge realize it or not, taking into account the special characteristics of the case, without detriment to that to satisfy the principles of completeness and consistency are studied approaches legality or unconstitutionality indeed been invoked.

In this context procedurally the first allegation of violation identified in the amparo complaint should of examined in which the complainant states

in the act being claimed that consists of Diplomatic Note 07654 of November 4, 2011 the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States in America failed to provide foundational and instructional support or failed to give legal foundation and structural support and to provide his material competence or jurisdiction as well as territorial grade and quality as he did not cite any legal precept nor rule directly violating the human rights consecrated in Articles 14 and 16 of the Political Constitution of the United States of Mexico. [Check this paragraph for better translation.] With that purpose, it should be noted that the Constitution and Article 14 and 16 set forth a series of principles that should be respected by all authorities when issuing acts that hinder or deprive, among which are found to be the holder of an attribution that arises form the law at issue or does undertake certain judicial functions.

In other words, it is essential that acts of authority be issued and made effective by those who have competence to do so but, moreover, abide by the essential formalities that give them judicial efficacy which means, that all acts of a public authority by necessity should be issued by those individuals who authorize to that end setting forth the faculty upon which he signs and the regulation that grants him that attribution. Since the opposite would leave the affected party in a state of indefensibility as he would not know the norm or regulation that is alleged to sustain that gives the authority to that authority to issue the act nor the character which with he is performing it and it is therefore evident that he not be granted the opportunity to examine if the act of this authority is within or without the framework of the respective power. If this act is not in conformity with the law or the constitution so that as the case may be in a position to allege, aside from the legality of the act, the legal footing on which the authority is relying in order to issue in the character in which it was done since it could happen that the act may not adequately be within the regulation agreement of decree

invoked or that it be done in contradiction with secondary law or fundamental law.

From the foregoing one can see that the guarantee of foundedness consecrated from the proceeding it follows that the principle of requirement of legal basis and the guarantee of the requirement of legal basis consecrated in Article 16 of the Political Constitution of the United States of Mexico requires precision in the citation of the statutory standards that in our administrative authority that issues the act that injures at issue heading to that good which is judicially protected by the constitutional exigency which is the possibility of providing certainty and judicial security to the private individual when confronted by the acts of authority that they consider a fact or injure their judicial interest and therefore to ensure the right to defend of those before an act that is not in compliance with the necessary legal requirements.

In that line of thinking it is important to mention that the legal order and the legal disposition that grant the attributions to the authorities to issue an act of injury has, in reality, only one objective and that it consists in that is to provide legal certainty and judicial security to the governed when facing the act of the governmental entities since that way a private individual has knowledge of the indispensable information to defend his interests and contrary wise this is to exempt the authority of the duty of setting forth with precision its power of competence would in fact deprive the affected party of an element that could result as essential to adequately contest that act when he finds it convenient since not knowing the law or legal regulation that grants the authority the ability to issue the act of injury that affects its judicial sphere and in such a case to challenge such act of that authority when he finds it to be not in compliance with the rule of regulation that grants such attributional power of when the judicial disposition could find itself to be in contradiction with the federal constitution.

On the foregoing the formality of providing the legal foundation that grants the power to perform the act of injury on the part of the authority that issues it

constitutes and essential requirement of that very act inasmuch that it is efficacy or validity shall depend on the administrative body that issues acts within the scope of his authorities pursuant to regulation that authorize its execution.

Accordingly since it is the responsibility of the administrative body to be aware of all of its functions and responsibilities which are proper to it which are found said forth in the law and legal suppositions that limit its field of actions and give rise to certainty for the governed as to the state entities that can validly effect their judicial sphere. It is not possible to consider that in order to meet the ends of the fundamental guarantees of Constitutional Article 16 is enough to merely cite the legal rule that granted it the power since the organization of the Public Administration in the Mexican judicial system is focused in the distribution of functions to the different bodies that compose it by reason of material, grade and territory so as to satisfy the interest of collectivity in an efficient fashion.

In that sense, in order to respect that principle of judicial security guaranteed and protected by the previously cited Constitutional precept it is necessary that in the written order than contains the act of authority at issue the specific legal dispositions be precisely set forth that define the area of competency of the issuing body, the attribution that permits then the effect of the judicial sphere of the governed in accordance with the different criterions of attributions.

It is worth noting the implication of the legal provision in a global form is insufficient in order to establish that an act of injury insofar is the jurisdiction of the authority is correctly set forth or founded when there exists diverse criterion over that particular consideration and such situation would imply that the individual would ignore which of the legal dispositions

that integrate the body of law is specifically applicable to the act undertaken by the state body from which it emanates by reason of subject matter, decree, and territory. Hence, facing such situations it is also indispensable to set forth the legal precept that in accordance to the distribution of jurisdictions and powers converse onto it the power to accomplish its act even when within a defined territorial limit so that the governed can find it possible to know if the respective act was issued by a competent authority.

---

179 909

of the complainants even when the latter is not specifically complain as to the unconstitutionality and unconventionality of the inappropriate act taken by the responsible authority.

In that regard the tribunals set forth by the full house of the Supreme Court of the nation stating that the mechanism for the ex-official control as to conventionality in the issue of human rights, which is the Office of the Judicial Power, should be in accordance with the general model of control set forth in the constitution as set forth constitutionally.

The analytical framework of the control that should be exercised by all of the judges of the country is as follows:

A. all of the human rights contained with the federal constitution and which find their basis in Articles 10 and 133 as well as the jurisprudence issued by the judicial power of the federation.
B. all human rights contain within the treaties of which the United States of Mexico is a part.
C. all of the binding criteria of the Inter-American Court of Human Rights that come from the judgment from which the United States of Mexico has been a part to.

D. All of the guiding criteria that comes from the jurisprudence and precedence of the previously cited court when the United States if Mexico has not been a part thereto.

In that order of ideas, the judicial power should follow the following step when exercises a *sua sponte* control of conventionality in as to issues of human right.

I. Purposeful interpretation in the widest sense which means that the judges of this country –as well as all of the other Mexican authorities- should interpret the legal order under the light and in conformity with those human rights recognized in the constitution and international treaties which the State of Mexico is a part thereto, all the while favoring the persons with the most ample protection.

II. Purposeful interpretation in a strict sense, which means that when their various interpretations which could be judicially valid the judges should in keeping with the presumption of the constitutionality of the law prefer that which it makes the law to be in agreement with the human rights recognized in the constitution and international treaties to which Mexico is part thereto so as to avoid undermining or infringing the essential content of these rights.

III. The non-application of the law when the previously set alternatives are not possible.

The preceding does not effect that or break with the logic of the principle of division of powers in federal but rather strengthens the role of the judges in their being the last recourse to guarantee the primacy and effective application of the human rights set forth in the constitution and in the international treaties to which Mexico is a part thereto.

In this way when dealing with human rights it would be not use to the Mexican State since they should not limit themselves to the application of the law but also that of the constitution, treaties of international conventions in conformity to the jurisprudence issued by which ever international tribunal established the interpretation of the treaties, facts, conventions or agreements entered into by Mexico which obligates the exercise of the conventionality of control within the judicial rules internal and supranational as this means to abide by and apply within the framework of their jurisdiction and include legislative means and measures of an order to ensure the respect of rights and guarantees through the policies and laws that so guarantee them.

Likewise, the Inter-American Court of Human Rights has issued criteria in the sense that when a state such as in this case Mexico has ratified an international treaty such as the Inter-American Convention on Human Rights its judges as part of the apparatus of the state

should ensure that the dispositions therein contained do not find themselves reduce or limited by internal dispositions that go contrary to their objective and finality hence they should exercise control of conventionality within the internal regulations of the national laws and the convention itself taken under account in doing so not only a treaty but the interpretations of said treaties.

In that light it is important to note that in Articles 1 and 24 of the American Convention on Human Rights states the following:

San Jose, Costa Rica 7 22 of November 1969
American Convention on Human Rights (San Jose Pact)

Article 1. Obligation to Respect Rights

1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

2. For the purposes of24 this Convention, "person" means every human being.

Article 24. Right to Equal Protection

All persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law.

In the preceding it is necessary to note that the Inter-American Court on Human Rights has established their Article 1.1 of the convention is a norm of general character the content of which shall extend as to all of its dispositions to the treaty and sets forth an obligation of the states that are party thereto to respect and guarantee the freed and full access to human rights therein recognize, without any discrimination this means whichever the origin or form be of any treatment that could be considered discriminatory in respect to the exercise of any of the rights

guaranteed in the convention is per se incompatible with the same.

As to the principle of equality before the law and non-discrimination, the Inter-American Court of Human Rights has stated that the notion of equality arises directly from the unity of the nature of the human being and is inseparable from the essential dignity of the person before which any situation that because of considering one determined group superior to the other, it is incompatible to provide the result that leads to a privileged treatment due to considering it inferior should treat it with hostility or any form whatsoever that would lead to the discrimination of the full enjoyment of the rights that are recognized unto those people that are not considered to fall in that situation.

In the current phase of the evolution of international law, the fundamental principle of equality and non-discrimination has entered the role of jus cogens. Upon it, the entire judicial firmament of the national public order and international order lies and it permeates all judicial ruling. The American Convention as well as the International Pact on Civil and Political Rights does not contain an explicit concept of discrimination. Taking as the bases for definition of discriminations, those established in Article 1.1 of on international convention as to the elimination of all forms of racial discrimination and Article 1.1 of the Convention for the Elimination of all forms of Discrimination Against Women, the international committee of the Pact of Human Rights and Civil and Political Rights has defined discrimination as follows:

> "all distinction, exclusion, restriction, or preference that may base or determine motive by race, color, sex, idiom, religion, political opinion or other such national origin or social origin, property, birth right or any other social condition and that has as its object or result to annul or undermine the recognition, enjoyment or exercise in conditions of

of equality of the fundamental human rights and liberties of all people."

Consequently, while the general obligation found in Article 1.1 refers to the obligation of the state to respect and guarantee "without discrimination" the rights contained in the American Convention Article 24 protects the right to equal protection under the law.

This means Article 24of the American Convention prohibits the discrimination of the right in fact not only in the measure of the rights consecrated in the treaty but also in respect to the laws approved by the state and in their application. In other words, if a state discriminates insofar a guarantee of a conventional right it would fail to follow its obligation established in Article 1,11n and the substantive law in question. If, on the contrary, such discrimination referred to an equal protection by the internal law or its application, the facts should be analyzed in light of Article 24 of the American Convention. In light of the foregoing, it is simple to realize that Diplomatic Letter 06754 of November 4, 2011, issued by the extraordinaire Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America is unconventional in opposition, not only to the human rights contained in Article 1 and 24 of the American Convention of Human Rights but also against the interpretation and criteria brought forth by the Inter-American Court of Human Rights inasmuch as the determination on the part of the responsible chancellor provokes and results in an unjustified discrimination based or motivated in the social and ethnic origin or condition creating categories of Mexicans abroad even where their rights should be protected in equality and circumstance.

The above is set forth as the criterions set forth by the Inter-American Court of Human Rights which comes from the judgment wherein the State of Mexico did not intervene as a party to the litigation, serve as orientation for all decisions of Mexican judges as long as they are more favorable to the persons in conformity of Article 10 of the constitution.

In this way the national judges should observe the human rights established in the Mexican Constitution and international treaties to which Mexico is an art thereto as well as the criterion issued by the judicial power of the President of the Federation when interpreting the same and follow the interpretive criteria of the Inter-American Court to evaluate if any exists which would produce a more favorable result and procure a more amble protection of the right that it pretends to protect.

In that mean, in the case of Lopez Alvarez in Honduras, Sentence of February 1, 2006, the Inter-American Court of Human Rights held that the principle binding law of equal protection and the effectiveness of the law and no discrimination determines that the states shall abstain from issuing discriminatory regulations or that may have discriminatory effects upon different groups belonging to a population who are at the moment they exercise their rights. Moreover, the states need to combat discriminatory practices and adopt the necessary measures to ensure an effective equality of all persons before the law. The states need to take under consideration the information that provided the differences between the members of the indigenous population in general which conform the cultural identity of the same. From here and applying these considerations to the concrete case, it is evident that Diplomatic Letter 07654 of November 4, 2011, issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America violates what is set forth in

in Articles 1 and 24 of the American Convention in Human Rights.

The preceding is set forth by virtue that it is incontrovertible that the responsible authority in the steadfast defense of the rights of the Aggrieved Third Party over those exercised by the complainants without regards to the fact that they find themselves in circumstance of equality in accordance with Article 2 Fraction 1 and 2 of the Law of Mexican Foreign Service and 3 of the Convention of Vienna on Diplomatic Relations published in the official diary of the federation on August 3, 1975 provoked an unjustified discrimination and contravention of the human right of equality against the complainants being that the responsible chancellor when he put the interest of the third party prejudice over and above those of the complainants produced an unnecessary category of individuals who enjoy the same conditions of Mexicans abroad when taken under account that it privileges an ex-functionary in respect to people who are of an ethnic Indian origin.

As to these considerations it is applicable in its reach and breathe the thesis PLXVI/2011 (9a) set forth by the Nation's Supreme Court of Justice meeting in plenary session, as found 550 Book III December 2011, Tome 1, of the Weekly Judicial Reporter of the Federation, and its Gazette, in its Tenth epoch, the content of which reads as follows:

> Criteria issued by the Inter-American Court when the Mexican government was not a party, are guiding for Mexican judges are more favorable if the person in terms of Article 1. of the Federal Constitution. The criteria of the Inter-American Court of Human Rights judgments arising where the Mexican state did not intervene as a party to the litigation are counselors for all Mexican judges' decisions, if they are more favorable to the person in accordance with Article 1st

. Constitutional. Thus, national courts must observe the human rights enshrined in the Mexican Constitution and the international treaties to which the Mexican State is a party, and the criteria issued by the Federation judiciary to interpret and apply to the criteria interpretation of the Court to assess if any is more favorable and seek wider protection of the right to be protected. That does not affect the possibility of their internal criteria which comply better with the provisions of the Constitution in terms of Article 1., Which will be assessed case by case basis to ensure always the greatest protection human rights.

****

Likewise, the generic arguments presented by Ambassador Extraordinary and Plenipotentiary of Mexico in the United States should be dismissed insofar the argument that his acts are irreversible when one considers that the third part prejudice

Likewise, the last argument is well-founded as presented in the last allegation of grounds of violation identified as the fourth in the amparo complaint, in the sense that the responsible authority failed to provide legal cases and legal foundation and motivation as to the way or degree that would eventually injure the national sovereignty with the substantiation of the sole trial against an ex head of state who is not currently within his functions and that the attribute of head of state has already ceased.

In order to demonstrate what is asserted previously it is convenient to bring into this context the first paragraph of Article 16 of the Political Constitution of the United States of Mexico, which reads as follows:

> Article 16. No one may be molested in his person, family, domicile, papers or possessions, except by written order of the competent authority, which melts and the legal cause of the procedure ...

The normative portion transcribed establishes the guarantee of legality of the acts of authority that effect or infringe any perturbances upon private individuals without depriving them of the rights and imposes upon authorities that issue such acts the obligation that such acts be expressed in writing, come from an authority with the power of jurisdiction, and the they be found and motivated by a legal cause insofar its procedure. This means they shall

state a legal cause and the motives of fact that were considered by the authorities to issue the act which need to be real and true, and vested with sufficient legal force to provoke the act on the part of the authority.

In this way, the acts of authority in no way can be delink of what is set forth in the first paragraph of Article 16 of the constitution that imposes upon the authorities the obligation to duly provide the basis and motivation of the acts that they issue. Indeed the guarantee of legality consecrated in the Federal Constitution establishes as one of the essential elements that all acts of injury that are aimed against the governed be founded and motivated.

Likewise, the principle of legality is essential to the judicial regime of the rule of law since all law, all procedure, all resolution, all jurisdictional administrative resolution as well as all acts of authority need to be an expression of law insofar and as much as they are fashioned, issued, or executed by the competent organ or organs within the framework of the respective powers. Compliance by all of the laws within a judicial regimen of the state is the supreme guarantee and the effectiveness of this guarantee constitutes the norm to effect the judicial framework.

The guarantee of legality consists in the obligation that falls upon the competent authority to setting forth grounds and reasons in writing in cases of injury so as in that way to abide by the formal requisites contained in said right. The requirement to provide legal reason has its purpose that the governed has the possibility to attack said legal basis if these are not correct or on the other hand if they were not in accord with the cited motivation, in other words, in order to avoid the issuance of arbitrary acts.

There do not exist any exceptions to the compliance of the stated duty. This is, all authorities should when issuing an act of injury provide legal foundation meaning to have access support the judicial precepts that permit this issuance and establish the hypothesis that generates this emission. This being one of the requirements provided for in Article 16 constitutional.

Likewise, it is noted that the guarantee of legality contemplated in this article refers to a general principle that has its application in civil, penal, administrative, and labor law including all administrative acts as well as judicial.

It is important to note that the acts of administrative authorities affect in a unilateral manner the interests of a governed individual. This is that an administrative act must comply with formality meaning to invoke in a precise manner the fundamental basis, numeral(s), fractions, so that the governed individual have the possibility of knowing the legal grounds for the act that is affecting him so that he has the possibility to defend himself and not find himself in a state of indefensibility.

In dealing with administrative acts it is not the parties that give it their origin or are the origin of it who invoke the right but rather in the majority of the cases is very same administrative authority that issues the acts or resolutions that are addressed or affect the governed which thus means that the lack of this citation of the legal grounds applicable generate a state of uncertainty in the governed which can effect inasmuch as it would impede his ability to produce and opportune defense, adequate and efficient as he would be left without knowledge of precisely what laws apply and the concrete basis serve as the basis to the authority to emit his acts.

This thus limits the ability to assert within the time established the legal resources or means to defend or challenge as well as be able to suppress the reasoning to show the inapplicability or the lack of actualization or assistance of the

of the legal hypothesis that of the regulation that should have been applied which means that in order for the individuals to be able to defend and provide proofs against the act of authority it should be given to them expressly the motives of legal foundation and hence the reason for the requirement that these be cited expressively with the legal foundation in reference to the value that is judicially protected by the constitutional requirement.

Under these terms the foundedness and motivation are indispensable and furthermore the validity of all act of authority inasmuch as it is essential that the actual circumstances that the authority took under account when applying the supposed regulations be expressed since it yields the adequacy between the specific circumstances and the concrete legal foundation.

In support of this consideration where applicable it is the jurisprudence of the Second Chamber of the Supreme Court of Justice of the Nation Page 57 Tom 30 3rd part of the Judicial Weekly of the federation 7th epoch that the header and text of which read "Foundedness and motivation of warranty of *.*"

Now it should be kept in mind that in Diplomatic Note 07654 of November 4, 2011 the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States of America where it is relevant stated the following

Embassy of Mexico

Washington, D.C. on November 4, 2011
Madam Secretary:

On behalf of my Government, I have the honor of referring to the case of *Doe et al v. Zedillo Ponce de Leon,* filed in the Federal District Court for the District of Connecticut, under number 3:11-cv-01433, instituted against the Ex-President of Mexico, Ernesto Zedillo Ponce de Leon.

Regarding same, I must manifest the rejection of my Government to any internal process which negatively affects Mexican sovereignty, by exercising jurisdiction over presumed acts which occurred in national territory in which the President of the Republic presumably intervened. In that sense, it must be noted that any action carried out by the Ex-President, Ernesto Zedillo, regarding the acts referred to in the complaint which gave rise to the preceding case, were carried out during the course of his official functions as Head of State, and therefore, if admitted, the Court would be making decisions regarding sovereign actions of the government of Mexico carried out within its own territory.

(By virtue of the foregoing...)

To the Most Excellent Madam Hillary Rodham Clinton
Secretary of State
Washington, D.C.

By virtue of the foregoing, I respectfully request the intervention of the Department of State, through the Department of Justice, before the Federal District Court for the District of Connecticut, by way of a suggestion of immunity regarding the Ex-President of Mexico. In this sense, 1 wish to point out that the grant of immunity enjoyed by foreign dignitaries for acts committed in their official capacity is a long — recognized principle of generally practiced international law the application of which has been confirmed on multiple occasions by the United. States government, particularly in circumstances having to do with Heads of State. Accordingly, important legal precedent exists within United States jurisprudence which confirms said practice.

In that regard, I cite you to the cases of *Gerritsen v. De la Madrid, Habyaritnana v. Kagame, Giraldo v. Drummond Co., Wei Ye v. Jiang Zemin and Lafontant v. Aristide*, as a sample of the occasions on which the Department of State has intervened in the past before the courts of the United States to reaffirm

191 815

its position regarding the immunity granted to Heads of State even after the conclusion of their official terms. Attached hereto is a legal memorandum which outlines the primary elements of said precedent.

Likewise, I wish to point out that a proceeding like the one brought against the Ex-President of Mexico will affect bilateral relations between Mexico and. United States, in undermining the acts of many national authorities in response to the events which occurred in Acteal, Chiapas in December, 1997, acts which the government then in existence emphatically condemned, turning immediately to the investigation and the presentation of those responsible before the courts.

Thanking Your Excellency in advance for your valuable support in obtaining the intervention of the Department of State in the preceding case, I take advantage of this opportunity to reassure you of my highest and distinguished consideration.

Arturo Sarukhan
Ambassador

The statements above make manifest that the responsible authority indeed omitted to states legal and factual basis or foundation for the allegation that the Mexican national sovereignty would be injured with the mere continuation of a civil trial against an ex-president who no longer holds that office and his responsibilities as head of state are already over.

In this way it is patently obvious that any possible injury to the national sovereignty of Mexico is not accredited in the amparo trial as arising from the restoration or act of returning to previous condition of a civil trial as against the Aggrieved Third Party, especially when the responsible authority failed to set forth legal and factual basis or foundation for it, violating the human rights of legality and judicial security to the prejudice of the complainants.

In other words, the diplomatic note at issue the responsible authority limited himself to wielding a diverse set of dogmatic affirmations, without legal nor factual basis for it, even though he found himself required to justify his

191 [bar code]

Acts as per what is set forth in Articles 14 and 16 of the Political Constitution of the United States of Mexico.

As such, it is glaringly obvious that the generic statements on the part of the responsible ambassador insofar that the national sovereignty would be injured if the ex-functionary was subject to a civil trial abroad lacks all legal basis , there being a complete lack of legal foundation and undue motivation in the act in question, this violating the human rights consecrated in Articles 14 and 16 of the Political Constitution of the United States of Mexico.

Thus it is applicable to the reasoning set forth the thesis VI.1o.232 K, issued by the First Collegiate Tribunal of the Sixth Circuit, published in the Judicial Weekly of the Federation and its Gazette, Tome XV-II, February of 1995, page 189, which states:

> Acts of authority, must be in writing and be grounded and motivated. To complied with the requirements of foundation and motivation provided for in Article 16 of the Constitution, it is necessary that every act of authority in writing, in which accurately express legal provision applicable to the case and special circumstances, particular reasons or causes immediate have been taken into consideration for admit it, being also necessary that there is consistency between the reasons given and the rules, that is, that in the specific case scenarios are set standards, so are forced to defend themselves in fitness due form.

To further support the reasonings set forth above, it should be kept in minds that throughout multiple prior decisions, the Supreme Court has held that even when dealing with the exercise of discretionary power, the authorities find themselves obligated to set forth legal and factual basis or foundation for their resolutions, keeping with the obligation found in Article 16 of the Constitution, where such requirement cannot be repealed or eliminated by a subsequent legislator

193 816

Through the granting of discretionary powers.

Illustrative of the foregoing is the criteria the text and publishing information reads as follows:

"Discretion of the authorities, limitations on its exercise. The grant of discretion to the authorities is not prohibited, and occasionally their use may be appropriate or necessary to achieve the purpose that the law states, however, the exercise should be limited so as to prevent the arbitrary performance of authority, limitation which may arise from the provision itself rules, which you can set certain parameters to abide by the reasonable exercise of the power or the obligation to inform and justify any act of authority "(1. CLXXXVII/2012, published in the Judicial Weekly the Federation and its Gazette, Book I, October 2011, Volume 2, p. 1088.)

"Remission of tax penalties. The individual concerned with the resolution that denies, has legal interest to promote indirect amparo against him. Article 74 of the Federal Tax Code, authorizes the taxpayer to apply to the Ministry of Finance and Public Credit waive fines for violating the law. If the resolution issued by the Ministry of Public Credit is in the sense of denying the waiver, this causes an injury to the legal rights of the taxpayer, because that determination can be challenged through injunction, it is clear that produces affectation in his legal interest as the authority to resolve discretion, granting or denying the waiver, in exercising the discretion that the law gives should take into account the circumstances and the motives of the authority that imposed the sanction, which implies that this action of the authority is likely to violate individual rights of the governed, as the discretionary faculties granted by the law are subject to the requirements of foundation, justification, consistency and completeness required by the Constitution of the United States Mexican and secondary law. "

193 [bar code]

> (2a./J/ 86/99 found in the Judicial Weekly of the Federation and its Gazette, Tome X, July 1999, page 114)
>
> Discretion, appreciation of the misuse of the authority granted. Total base of discretion appreciation is the freedom that the law gives the authorities to act or to refrain, for the purpose of achieve the order that the law tells them, so that its exercise necessarily entails the possibility of choose, to choose among two or more decisions, without arbitrariness signified or permitted as such act of authority is subject to the requirements of foundation and motivation required by Article 16 of the Policy Constitution of the United Mexican States , which allows discretionary acts are controlled by the judicial authority. "(P. LXII/98, searchable Judicial Weekly of the Federation and its Gazette, Volume VIII, September 1998, page 56.)

Corollary to the above is that even if the responsible authority enjoyed wider authority to issue the diplomatic note at issue, he would still be subject to the principle of legality protected in numeral 16 of the General Constitution of the Republic.

The fact that Diplomatic note 07654, of November four of two thousand eleven, issued by the Ambassador Extraordinary and Plenipotentiary of Mexico in the United States includes a memorandum by indicating that "… Attached hereto is a legal memorandum that contains greater elements as to prior statements" does not represent an obstacle to the prior arguments.

This is so given the fact that the legal and factual basis must appear in the body of the act in question and not in other documents, and therefore the responsible authority failed to comply with his constitutional obligation to adequate set forth legal and factual basis for the diplomatic note being challenged, even where it to be that he expressed the reasons for the action and

195 817

Legal considerations on which he rested in a different document entitled memorandum of issues.

Moreover, the constitutional defect identified in fact that the previously referred Memorandum of Points brought forth as support for the insufficient and inadequate motivation for the diplomatic note at issue is further corroborated in that the memorandum also likewise lacks all legal and factual basis, also lacks an original signature of the public functionary who may have issued it, all in violation of the human rights consecrated in Articles 14 and 16 of the General Constitution of the Republic. In this way, both acts are residual fruits of unconstitutionality by failing to comply with the minimum requirements that any administrative act should meet, which requirements are set forth in Article 3 of the Federal Administrative Procedure Law with states as follows:

> Article 3. - Are elements and requirements of the administrative act:
> I. Be issued by the competent body, through public servant, and if that body regardless referee, meet the formalities of the law or decree for broadcast;
> II. Having objects that may be the subject of it; fixed or determinable; precise as to the circumstances of time and place, and provided for by law;
> III. Meet the public purpose subject to the rules that specific, but may not pursued any other purpose;
> IV. Put in writing and signed autograph of the issuing authority, except in cases where otherwise authorized by law to issue;
> V. Being funded and motivated;
> VI. - (Repealed, D.O.F., December 24, 1996)
> VII. Be issued subject to such provisions relating to administrative procedure under this Act;
> VIII. Be issued without prior mistake on purpose, cause or reason, or on the purpose of the act;
> IX. Be issued without prior fraud or violence issue;
> X. Mention the organ which emanates;
> XI. (Repealed, D.O.F. December 24, 1996)

195 [bar code]

> XII. Be issued without prior reference error with respect to the specific identification of the case, documents or full name of the people;
> XIII. Be issued indicating the place and date of issue;
> XIV. In the case of administrative acts must be disclosed must be notified of the office in
> found and can be accessed respective file;
> XV. Actionable case of administrative acts must be disclosed as appropriate resources and
> XVI. Be issued expressly deciding all items proposed by the parties or established by law.
> 195 [bar code]

It should be emphasized that the above cited memorandum of points, found in pages 238 through 240, 318 and 319, constitutes simple dogmatic affirmations, lacking any legal basis, and even should be translated to be the personal opinion of a public servant (who, by the way, fails to indicate his name and position), especially where no legal norm is cited in support of the manifestation that it contains and much less does it contain an authentic or reproduced signature , thus in direct contravention with the human rights consecrated in articles 14 and 16 of the Political Constitution of the United States of Mexico , being that such inconsistencies vitiate, affect and reach the constitutionality of the diplomatic note at issue, and hence, the argument under analysis is well founded.

Supporting of the consideration above presented, where for its contents and reach, is the jurisprudence set forth by the Second Chamber of the prior integration of the Nation's Supreme Court of Justice, found in page 201, volume 139-144, third part, of the Judicial Weekly of the Federation, Seventh Epoch, the header and text of which read:

> Rationale and motivation. Must appear in the body of the document resolution and not distinct. The authorities
>
> [bar code] 196

> do not comply with the constitutional obligation to establish and justify the resolutions duly pronounced, stating the factual and legal considerations on which they rest, when they appear in different document.

On the other hand it should be stated that in the seventh allegation of ground set forth as violative in the amparo complaint the Plaintiffs claim, in substance, that the diplomatic note at issue infringes upon the principle of the supremacy of the constitution, consecrated in article 138 of the Political Constitution of the United States of Mexico , in that the responsible authority ignored that the international legal framework adopted by our nation does not recognize the possibility diplomatic immunity can be sought for the purpose of allowing public functionaries to avoid their responsibility.

Towards this goal it is necessary to make clear that if the supremacy of the constitution is a constitutional right which falls within the scope of human rights established by the aforementioned Federal Constitution, and that fundamental public right can be wielded to the injury of a physical or moral person.

Unlike the European public law , which normally resists the insertion into its positive constitutional clauses norms that recognize the supremacy of the constitution insofar the acts that in the exercise of their sovereignty the Legislative, executive or Judicial powers of a estate may issue, the Public Law of the Americas (Argentina, Colombia, United States, Mexico, Uruguay and Venezuela) from their time of their birth to the present, have expressly and conscientiously evolved

197 [bar code]

towards and in favor on the principle of constitutional supremacy, by inserting into the text of the different constitutions of the previously listed American nations that principle, which has acquired the political character of a fundamental public law of the people, manifested in the proposition that "no one can be deprived of their rights" (Article 14 of the Current Political Charter of Mexico) and, among those rights the right to the supremacy of the constitution is of paramount value, recognized as "norma normarum" and is above any legislative act or any act of the public administration or any judicial act that ignores, violates or separates itself from the combination of clauses and structural principles of the positive constitutional order of a nation.

The Constitution of the United States of America, of the seventeen of September of one thousand seven hundred and eighty seven, in its article VI, second paragraph, is the first Fundamental Code of a nation that was able to set forth, in a positive constitutional norm, that the Constitution is the Supreme law of the land and lies above of all Federal and local laws, and of the treaties or acts of any other authority and "the judges of each State shall be subject to it, even where the apposite may be set forth in the Constitution of laws of each State."

The North American jurisprudence and doctrine, as in the pieces of learned writing of Story as in Kent, of last century, or those of Corwin, of the last century, are of incontrovertible strength as to the supremacy of the Constitution in the face of any Federal or local law in conflict with it, or even in the case of acts undertaken by other federal or local authorities of the United States that may be in contravention with it.

The precedents coming from the Jurisprudence of the supreme Court, since the year one thousand sixteen until today

Have also upheld the supremacy of the constitution over any act of authority that tries to ignore its reach and the evolving meaning of its clauses, as set forth by Corwin in his valuable commentaries on this issue.

The constitutional theory in Mexico has always being irrefutable as to the Supremacy of the Constitution, as a fundamental and primary rule in the exercise of public power, and one of the fundamental elements of this supremacy is present in article 376 of the Cadiz Constitution of the nineteenth of March of one thousand eight hundred and twelve, and its presence is more obvious in article 237 of the Constitution of Apatzingan, of the twenty second of October of one thousand fourteen.

In the XIX century, the split in our Public Law split by the two doctrinal currents, these being, the theory of a Federal system, always steadily gaining ground, and the ideological current of the unitary estate, which found home in the conservative thinking, became more pronounced in eth Mexican Public Law. The Federal Constitutional regime instituted from the Constitutive Act of the Mexican Federation of the 31st of January 1824, and respected by the first of out Federal Constitutions, the one of the 4th of October of that year, 1824, and restored in a definite form and the Act of Reforms of the 18th of May of 1847 and by the Constitutions of the 5th of February of 1857 and 1917, which adopted, uninterruptedly, the principle of Constitutional Supremacy, expressly set forth in text and instituted through other factors that make up the constitutional supremacy such as those setting forth that the Fundamental Law of a Estate

199 [bar code]

Should be issued by the Popular constituent power of the people. And that its revision should be entrusted to a especial organs, separate from that tasks with the development or ordinary laws.

It's proper to note that for the purposes of this principal of Constitutional Supremacy, that if the Act that created the Federal Estate of Mexico, the previously cited of the 31 of January of 1824, set forth in its article 24 that "the Constitutions of the Estates cannot be in opposition to this Act nor as to that which is set forth by the General Constitution.", the one, the one from the 4th of October of the cited year, regulates it with greater breadth and reach, when in its fractions I and II of its article 161 decrees that the States of the Federation are obliged to "organize its government and interior administration, not in opposition to this constitution, nor the Constitutive Act," and "must guard and uphold the Constitution, and the general laws of the Union and the treaties already in existence or that may be entered into heretofore by the Supreme Authority of the Federation with any foreign power."

The reform Act of the 18th of May of 1847, accommodates that notion of the constitutional supremacy in its articles 22,23,24,25 and 28, but without ignoring that in the Constitutional Project of the 16th of June of 1856, propounded by Ponciano Arriaga; Leon Guzman and Mariana Yanez, that in its article 123 of the Constitution, the law passed by the Congress of the Union and all treaties entered into with the approval of said congress shall become the Supreme Law of the Union, and the Judges of each state shall abide by them, and by the Federal laws and treaties, even when there could exist contrary dispositions with the Constitution or law of each State.

[bar code] 200

201 820

The Constituent Congress of 1856 -1857 approved by 77 votes the rule of the Supremacy of the Constitution, which turned them into Article 126 and 133 of the Fundamental Law of the Republic currently in force, that was approved by the Constituent Congress of 1916-1917, through a unanimous vote of 154 deputies that concurred in the public session of 25th of 1917, who stated to be in conformity with the opinion of Paulino Machorroz and Narvaez, Heriberto Jara Arturo Mendez and Hilario Medina, with the purpose of reincorporating into the constitution in vigor Article 126 of the 1857 that had been abolished by the Constitutional Project brought forth by Venustiano Carranza.

It was in this way that the supremacy of the constitution became a part of the principles conforming the constitutional regime of the Federal Estate of Mexico, as before any law, local or federal, or before any treaty, or acts that may appear to be in opposition or conflict with the Constitution and come from any Federal, local, administrative, judicial or labor authority, always keeping in mind that which was expressed in the year 1856 that the Constitutional Supremacy shall be the Safeguard of the Federal Agreement.

Among the systems that have strived for the principle of Constitutional Supremacy, England had not ever consigned it to an express text of its flexible constitutional laws, even though they have recognized the doctrine that the English tribunal, as opposed to French tribunals, which , without categorical adoption, have, since the Declaration of the Rights of Men and Citizens, of the 24th o August of 1788, considered indirectly as a rigid constitutional base the Constitutional Supremacy , since its notion of supremacy finds its bases on the institution of

201 [bar code]

constituent power of the people, as the exclusive holder of the sovereignty to approve and issue a Constitution.

Nevertheless, it cannot be denied that this country has not supported the insertion as positive clauses of its Constitution that the Constitution is the Supreme Law of the Land, even though Italy does grant it some relative consideration in its constitution of 31st of December of 1947 (article XVIII of the transitive and final dispositions.)

In fact, the French system, which has universal effects due to its observance by many estates of Europe and the rest of the world, has insisted in the doctrine of constitutional super-legality (Hauriou, Principles of Public and Constitutional Law, page 304 and 310), through the theoretical principle that the Constitution is a super law, having been decreed by the constituent power of the people, and cannot be reformed through the same means and procedures decreed for the issuance, modification, and amendment of the rest of the laws of the nation, but only through the reviewing body of the Constitution, which some time requires that it be the people, through a referendum or plebiscite.

Only the Public Law of the United States, since 1787, in the same manner a few years Mexico would follow in its Constitutive Act of the Mexican Federation of 1824 y, more concretely, commencing with the Constitution of the 5th of February of 1857, have influenced the Constitutional theory that requires the express declaration, within it, that said constitution is the supreme law, even though, in direct conjunction with the other elements that integrate the doctrine of constitutional supremacy

Such as to subject its amendment or reformation to the reviewing body of the Constitution, following a especial procedure; that the approval and issuance of the Constitution fall exclusively to the constituent power of the people, and that its respect or redress in case of contravention of its mandates be sought and obtained through a especial Constitutional system, which, in the constitutional system of Mexico, is the amparo trial, an example of an institution in this subject matter.

The Supremacy of the Constitution in Mexico lies in that it is above any and all Federal law, or international treaty o above any local law that may be in conflict with it, without there being any act of the Public Administration or the Federal or local judicial power that take place outside an amparo trial can fall outside this Constitutional Supremacy, which means, that in the Mexican constitutional hierarchy so as to ensure that the Constitution lies above any law o treaty that may infringe it, or above any other act of the public order that contradicts it or violates it, and which defines, in its perfect essence, this Constitutional Supremacy, in its expression as public individual right of every human person or the moral persons to the point that any disregard of it or violation of its norms is entrusted to it and repaired through the amparo trial.

The thesis set forth in Pa. LXXV/2012 (10a), set forth by the of the Second Chamber of the Nation's Supreme Court of Justice, published in page 2038, book XIII, October 2012, tome 3, of the Judicial Weekly of the Federation and its Gazette, is illustrative to this point where its header and text reads:

> Constitutional Supremacy. The amendment to Article 1. of the Constitution of the United Mexican States, of June 10, 2011, respecting this principle. The

> amendment to Article 1. In the Constitution, published on June 10, 2011, in any way contrary to the principle of constitutional supremacy since 1917 enshrined in Article 133 of the order itself, which has not been renovated since January 18, 1934, and in the text still determines that 'This Constitution, the laws of Congress emanating from it and all treaties in accordance therewith, shall be the supreme law of the Union', which means that laws and international treaties are at a lower hierarchical level than the Constitution, as in the case of the law clearly states that 'derive from it' and in the treaties 'to agree to the same'. Moreover, the reform of 2011 did not alter the Articles 103, 105 and 107 of the Constitution, in the part where subject to constitutional control allow both domestic law and international treaties, through the action of unconstitutionality, the constitutional controversy and the injunction. Moreover, the very article 1. amended provides that in our country all people enjoy the rights recognized by the Constitution and international treaties to which Mexico is a party, but categorically mandates that the limitations and restrictions on its exercise can only be established in the Constitution, not in treaties; provision is in line with the principle of constitutional supremacy. Principle is also internationally recognized in the text of Article 46 of the Vienna Convention on the Law of Treaties between States and International Organizations, to provide for the possibility of adducing as invalidating the consent of the existence of a manifest violation which concerned a rule of fundamental importance to its domestic law.

On these premises, it is clear that the Diplomatic note 07654, of November four of two thousand eleven, Ambassador Extraordinary and Plenipotentiary of Mexico in the United States infringed upon that which is set forth in article 133 of the General Constitution of the Republic, when he failed to abide by the Convention of Havana (Diplomatic Functionaries) published the 25th of March of 1929 in the Official Diary of the Federation, in as much as

In that international norm, the Mexican estate obliged itself to the following:

> …Recognizing that as diplomats representing their respective states, they should not claim immunity that are not essential to the performance of their official duties and you would hope that either the staff member or the State represented by him waive diplomatic immunity when referring to civil actions that have nothing to do with the performance of their mission ...

In fact, the responsible chancellor requested jurisdictional immunity for the benefit of an ex-functionary who is not actually discharge any official duties in the United States of America, and who was sued in a trial eminently based on private civil law (civil) in contravention of the spirit and scope of the of the international dispositions in issues relating to immunities, when it unjustly favored one of the parties, and violated the procedural equilibrium in a civil trial, abusing of the figure known as "jurisdictional immunity" and benefiting one private person to the prejudice of others.

Moreover, the analysis of the above cited Havana Convention makes manifest that the signatory countries did not agree upon any right that would give to ex-functionaries or prior heads of state, especially since such dispositions are directed to the members of the diplomatic core, but not so to the persons who have held some public position within the state.

It is important to note that neither in the Acts in Question nor in the Amparo trial, the responsible authority accredit that the Aggrieved Third Party is in the discharge of any official commission or in the public employ that is covered by diplomatic immunity, but rather, all to the contrary, it is proven and constitutes a well-known fact in accordance with article 88 of the Federal Civil Procedure Code, in its supplemental application to the Law of Amparo, that the aforementioned Aggrieved Third Party occupies no public position whatsoever in the Federal Government, hence

The diplomatic note at issue violates the principles consecrated in article 133 of the Political Constitution of the United States of Mexico.

Within this line of thinking, Diplomatic note 07654, of November four of two thousand eleven was issued in contravention of the premises adopted in the American Treaty on Pacific Settlement, or Bogota Pact, published the 14th of January 1949 in the Official Daily of the Federation, when it fail to follow the following principle:

> ARTICLE VII. The High Contracting Parties undertake not to make diplomatic representations to protect their nationals, or to refer a controversy in the international jurisdiction, where such nationals have had the means to go to the competent domestic courts of the State concerned.

The foregoing reveal that the responsible authority lack all legal basis, national or international, to request the jurisdictional immunity in favor of the Aggrieved Third Party , by virtue of the fact that there is no proof within the very act subject to review nor in the constitutional trial, as per article 78 of the law of Amparo, that the aforementioned ex-functionary have suffered some impediment in his ability to present himself before the domestic tribunal of competent jurisdiction in the respective State, so as to make necessary the intervention of the responsible Chancellor to champion his private rights.

In other words, the issuance of the diplomatic note at issue it is not justified in order to protect the aforementioned national (Aggrieved Third Party), if the latter has accessible the ordinary resources and means to defend himself so appear before the tribunals of North America and assert any limitations and defenses that he may deem appropriate.

[bar code] 206

The circumstance that the content of the records provided by the authority itself (pages 555 and 578) corroborates the prior posture, as it proves that the Aggrieved Third Party had within his reach the appropriate legal means to defend himself before the District Court of Connecticut in the United States of America, and furthermore, there does not exists any act that prevents him from presenting himself and set forth those limitations and defenses, and hence , that give merit to the intervention of the part of the responsible ambassador when he prejudiced his conational in a civil trial in which the equality among the parties should be the norm.

Consequently, since the points set forth in article VII of the American Treaty on Pacific Settlement, or Bogota Pact, published the 14th of January 1949 in the Official Daily of the Federation have not been followed, it is uncontroverted that the diplomatic note 07654, of November four of two thousand eleven issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in the United States of America is violative of human rights.

In the same way as it is argued by the complainants, the aforementioned diplomatic letter contravenes the Rome Statute of the International Criminal Court, published the 7th of September of 2005 in the official daily of the Federation, by virtue of the fact that in articles 27, points 1 and 2 of this statute, it is established that immunities should not serve as impediments to trial of ex-functionaries or public functionaries, in equality of circumstances.

As further support to the above, it's right to note that the responsible authority ignored that the civil complaint identified as private lawsuit 3:11-cv-01433-AWT, filed and pending before the District Court of Connecticut, United States of America (pages 41 through 102) does not pretend to put in trial

Mexican State, rather, the only party to the lawsuit is the Aggrieved Third Party .

In this frame of mind, and contrary to what was presented by the responsible ambassador in his diplomatic note, the sovereign act of the Mexican Government are not being questioned, nor would Mexico find itself condemned as a nation in that civil trial, relief sought consists only in a mere indemnification on the basis of damages and injury.

Moreover, it is necessary to indicate that the diplomatic note at issue lacks of instructional support insofar the responsible ambassador categorically affirms that challenged requested jurisdictional immunity was issued following the orders that were issued to him by representatives of the Mexican State (President of the Republic and the Secretary for Foreign Relations), and, furthermore, due to this circumstances, the international request at issue was made in the name of the United States of Mexico. However, those separate authorities have expressly denied having issued such orders or instructions in the justified reports (pages 287, 288, 298 and 299), hence, the challenged diplomatic missive has no justification, being that the responsible functionary executed it in his personal capacity and without the official consent of those tasked with the foreign policy of this country, which further corroborates the unconstitutionality of his actions in as much as it is directly violative of the principles consecrated in article 89, fraction X, of the General Constitution of the Republic.

Certainly, the preliminary analysis of the allegations made by the responsible ambassador evince that the request for jurisdictional immunity constitute an administrative act, complex and instructional in as much as its existence presupposes the realization of prior activities that conclude in the petition at issue, from which it follows that

Even when the act of the State is expressed through a diplomatic note, this is not a mere autonomous act.

As to this, it is convenient to mention that the doctrine recognizes that an administrative act can be materially classified as simple or complex, as a function of the number of bodies or entities that may participate in its emission, in the thinking that simple acts come from only one entity, while complex ones arise from various governmental entities.

Such classification is found in this case, and even illustrative of it, since the responsible authority claims that he issued the diplomatic note in obedience of instructions received to that effect from the President of the Republic and from the Secretary for Foreign Relations, which turns this act into a complex act due to the number of authorizes that participated in its issuance, and consequently should comply with the requirements contained within article 3, fraction I of the Federal law of Administrative Process, which states as follows:

> ARTICLE 3. These elements and requirements of the administrative act are:
> I. Be issued by the competent body, through public servant, and if that body regardless referee, meet the formalities of the law or decree to issue it; ..

Building on this basis, it is clear that the ambassador cannot, on his own, adopt an decision of that nature, this is, to solicit immunity in favor of a person who is not a part of the diplomatic core of the Estate of Mexico, in as much as to proceed accordingly the existence of an express instruction to that effect, issue by the President of the Republic, or by the Secretary of Foreign Relation, is indispensable, a position strengthened by a review of article 43 of the Mexican Foreign Service Law, since one of the powers conferred onto the Mission Chiefs, among others, one does not find that of requesting immunity

209 [bar code]

On behalf of a conational, but only for diplomatic functionaries, as can be perceived in the following transcription:

> ARTICLE 43. Corresponds to the Heads of Mission:
> ...
> III. Require, where appropriate and in the case courtesies, immunities, privileges and exemptions that apply to Mexican diplomats under international treaties and Mexico especially those granted to diplomats from other countries, only the Secretary may waive the immunity from jurisdiction enjoyed by those officials abroad, and ...

The foregoing lead to the incontrovertible conclusion that, as to these issues, the ambassador is but a mere executor of the order issued by the competent authorities, being that jurisdictional immunity was not requested for the protection of a diplomatic functionary, but for a conational who more than twelve years ago occupied the highest post of within the Federal Public Administration, but who nowadays is just another Mexican who does not hold any position for the Mexican Estate.,

Following that line of reasoning, one gets that the ambassador exercised an authority which had not been legally conferred upon him, which correspond, in any event, to that person who is tasked with providing direction to the foreign policy of the nation, a circumstances that makes the diplomatic note at issue unconstitutional, especially since it has not been proven in the record that the President of the Republic or the Secretary of Foreign Relations had instructed the responsible authority to formulate that petition, on the contrary, both authorities informed that they did not issue such order (pages 298, 299, 301 and 302), a point that shows that the ambassador issued the act in question out of his own volition, even where the ordinary legislator did not grant him that authority.

Then, if the diplomatic note in question is a complex act in which, according to the ambassador, the President of the Republic and the Secretary of Foreign Relations participated, inevitably the existence of the instruction on the part of the competent authority is required for its emission, and these, we emphasize, when rendering their justified report, manifested not having issued and such request to that effect, a fact that evinces that the ambassador did not act in accordance with an instruction, but rather out of his own will, even when he lacks the attributions to do so, since the direction of foreign policy is tasked onto the head of the Federal Executive, who, in order to manage such affairs, relies on the aforementioned Secretary, as set forth in Article 89, fraction X of the General Constitution of Mexico, and of numerals 26, third paragraph and 28 fraction I, of the Organic Law of Federal Public Administration, which contents appear below:

Political Constitution of the
United States of Mexico

> ARTICLE 89. The powers and duties of the President are the following:
> ...
> X. Conduct foreign policy and international treaty and finish, terminate, suspend, modify, amend, withdraw reservations and interpretative declarations formulated thereon, subject to the approval of the Senate. In conducting such a policy, the Executive Power shall observe the following guiding principles: self-determination of peoples, non-intervention, peaceful settlement of disputes, the prohibition of the threat or use of force in international relations; the legal equality of States, international cooperation for development, respect, protection and promotion of human rights and the struggle for peace and security;

Organic law for the Federal Public Administration

211 [bar code]

> Articles 26, third paragraph, and 28, paragraph I, of the Organic Law of Federal Public Administration:
> ARTICLE 26. For the office of administrative affairs, the Executive of the Union shall have the following dependencies:
> (...)
> Ministry of Foreign Affairs ...
> ARTICLE 28. The Foreign Ministry's office corresponds to the following matters:
> I. To promote, encourage and ensure coordination of actions outside the agencies of the Federal Government, and without affecting the exercise of the powers each of them appropriate, conduct foreign policy, for which intervene in all kind of treaties, agreements and conventions to which the country is a party;

As such, it is obvious that even though the diplomatic note at issue lacks all substantiation and instructional support, the eventually presented motivation is dogmatic, abstract and generic, without any judicial support, and even contradiction of the records found in 3:11-cv-01433, filed before the District Court of the State of Connecticut, United States of America, being that in that cause the State of Mexico does not appear as a defendant, only the Aggrieved Third Party as a physical person, and there is no request for a pronouncement against the nation, since the relief sought consists only in a mere pecuniary or economic indemnification.

Thus, if in the complaint filed and pending before the Connecticut District Court of the United States of America the Mexican state is not a defendant, it is plainly obvious that bilateral relations between the two nations would not be injured, as argued in an inexact fashion by the responsible authority, specially where the latter ignore that the Aggrieved Third Party currently does not find himself in the performance of official functions, and that even when the facts alleged in the complaint could have some relation with his position, it will be up to him to deal with those issues in his response to the complaint, through the assertion of limitations and defenses, as a physical person, but it is not the role of the responsible ambassador to

undertake the unyielding defense of the latter to the prejudice of other conational' s such as the complainants, hence the concept of violation under analysis is well-founded.

Under the considerations above mention, being manifest the injurious transgression of the human rights of the complainants consecrated in articles 1, 14, 16, 89, fraction X, and 133 of the General Constitution of the Republic, by reason of the fact that it was proven that diplomatic note 07654, of November four of two thousand eleven, issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in the United States lacks all foundation and original signature as well as having a due motive and there existing no justification whatsoever for the request of jurisdictional immunity favoring the Aggrieved Third Party it is appropriate to **GRANT** the amparo and the protection of the Justice of the Union for the effect that the aforementioned responsible authority render void the international note at issue and withdraw the before cited request for jurisdictional immunity, taking the related official acts before the same public entities to whom that petition was presented, and notify of its withdrawal, in accordance with that is set forth in article 80 of the law of amparo, as explained above.

Now, being that the grounds alleged as violative were deemed well-grounded and proved by the complainants, insofar that the diplomatic note 07654, of November four of two thousand eleven, issued by the Extraordinary and Plenipotentiary Ambassador of Mexico in the United States of America is unconstitutional, as it violates the human rights consecrated is article 1, 14, 16 and 133 of the Political Constitution of the United States of Mexico, it is unnecessary to analyze the rest of the allegations set forth in the amparo complaint, being that they would not receive a greater benefit than that

Reached by the aforementioned declaration of unconstitutionality of the act in question.

In support of the aforesaid, the jurisprudence set forth by the Third Chamber of prior integration of the Nation's Supreme Court of Justice, which can be found in pag. 72 of the Weekly Judicial Reporter of the Federation, tome 175-180, fourth part, seventh epoch, which states:

> CONCEPTS OF VIOLATION, STUDY OF UNNECESSARY. If the violation examine the concepts raised in the petition for relief is founded one of these and it is sufficient to give the petitioner the protection and guarantees under the federal courts, it is unnecessary to study other grievances.

ADJUDGED

FIRSTLY: It is not necessary to rule in this amparo trial in relation to the authorities the act complained of by the movants as alleged in third and fifth issues of consideration in this resolution.

SECONDLY. The Justice of the Union SHELTERS AND PROTECTS [XXXXXXXXX] and [XXXXXXXXX] as against the act described and in accordance with what has been set forth above in the last recital of this judicial ruling.

NOTIFY: through official means the responsible authorities and the rest through normative means.

THUS ordered and signed by Ricardo Gallardo Vara, Sixteenth Judge of District in Administrative Matters in and for the Federal District, assisted by Edgar Genaro Cedillo Velazquez, Authorized Secretary, with which the instant constitutional hearing is concluded.

TESTIFIED TO

[Signature] Ambassador Extraordinary and Plenipotentiary of Mexico in the United States

TRANSLATOR'S AFFIDAVIT

I, EMILIO J. DE ARMAS, am fluent in the Spanish and English languages and capable of complete and accurate translations from Spanish into English. I have translated the attached document completely and accurately from Spanish into English. The document is true and faithful translation of the original.

CERTIFIED COPIES. Sixteenth Tribunal of the District Administrative Matters in and for the Federal District

FURTHER AFFIANT SAYETH NAUGHT

EMILIO J. DE ARMAS

State of Florida)
)
County of Miami-Dade)

SWORN TO AND SUBSCRIBED BEFORE ME by EMILIO J. DE ARMAS who is personally known to me or who produced as identification a Florida Driver's license, on this Monday, July 8, 2013

FL. Driver Lic
D652-200-46-411-0

NOTARY PUBLIC
STATE OF FLORIDA

(NOTARY SEAL)

MAGDALENA MEDEL
Notary Public - State of Florida
My Comm. Expires Nov 9, 2016
Commission # EE 848854
Bonded Through National Notary Assn