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Administrative Court of Justice  
(*Tribunal Federal de Justicia  
Administrativa*).

by Juan Pablo Fraga

May NEWS on  
Mexican Commercial Law

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“DILIGITE JUSTITIAM QUI JUDICATIS TERRAM.” “Ye who judge the earth, give diligent love to justice”

## Importance of the Federal Administrative Court of Justice

*(Tribunal Federal de Justicia Administrativa).*

*by Juan Pablo Fraga.*

The Federal Administrative Court of Justice is a jurisdictional body with independence to issue its court decisions and forms part of the Executive Power in Mexico. The importance of this Court lies in the wide range of matters it settles down. The Organic Law of the Federal Administrative Court of Justice (*Ley Orgánica del Tribunal Federal de Justicia Administrativa*) lists a wide range of cases in its article 3 of the law matters that this Court can solve. Among these matters are:

- The trials promoted by the individuals against a final administrative decisión, administrative acts and procedures issued by the tax and social security authorities, when the authorities refuse the return of a revenue regulated by the Federal Tax Code (*Código Fiscal de la Federación*) improperly collected by the tax authority or whose return where applicable according to the tax laws.
- Fines for infringement of a federal administrative law, refusal of pensions and other social benefits granted by the laws to the members of the army and the national air force, in civil pensions in charge of the federal treasury or the Social Security of the State workers (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado*).
- Decisions concerning public tenders and interpretation and complying of public contracts, public work contracts, acquisitions contracts, lease contracts and services contracts performed by the individuals with the Federal Public Administration.
- Refusal of the compensation regarding the state liability or when the State dismisses a claim for compensation.
- Requirement for the payment of a bond in favor of the Federal Government, the States, the Municipalities and state owned companies.
- Decisions issued by the administrative authorities ending up an administrative proceeding in terms of the Federal Law of Administrative Proceeding (*Ley Federal de Procedimiento Administrativo*).
- Decisions settling administrative appeals or based in International Agreements to avoid double taxing or in a Trade Agreement signed by Mexico or when the plaintiff argues in its lawsuit that none of these agreements were applied in its favor.
- Decisions formed by a tacit negative in the Federal Tax Code (*Código Fiscal de la Federación*), the Federal Law of Administrative Proceeding (*Ley Federal de Procedimiento Administrativo*) or any applicable law.
- Decisions imposing administrative sanctions to the federal public servants in terms of the applicable law.

*"As we can see this Court despite being part of the Mexican Executive Power, is impartial when it comes issuing its own judicial decisions..."*

- Decisions rendered by the General Comptroller of the Electoral National Institute (*Contraloría General del Instituto Nacional Electoral*) imposing non serious administrative sanctions in terms of the General Law of Institutions and Electoral Proceedings (*Ley General de Instituciones y Procedimientos Electorales*) and finally,
- Decisions and sanctions rendered by the Superior Auditing of the Federation (*Auditoría Superior de la Federación*) in terms of the Law of Inspection and Accountability of the Federation (*Ley de Fiscalización y Rendición de Cuentas de la Federación*).

None of the other Courts in Mexico have the functions of the Federal Administrative Court of Justice, which means that only this jurisdictional body can solve the cases listed in the Organic Law of the Federal Administrative Court of Justice.

As we can observe, the Federal Administrative Court of Justice is very important in the Jurisdictional System of Mexico because it solves a variety of legal affairs within the Federal level ranging from tax, social security and foreign trade affairs to administrative, public tenders, pensions in favor of the military, international agreements to avoid double taxing affairs as well as a compensation regarding the state liability. In fact, this Court recently issued a judgement in favor of Jacinta Francisco Marcial an otomi indian from the State of Queretaro who was charged and illegally apprehended for allegedly committing the crime of kidnapping against six federal policemen in August 2006. Ms. Francisco was sentenced to 21 years in prison and she was liberated in 2009 after a Unitary Court granted her an Amparo compelling the judge of the case to issue a new judgement taking into account the multiple violations that took place in the process of the investigation. These violations were serious because no evidence was presented against Ms. Francisco and she lacked an interpreter because at the moment of the accusation she barely spoke Spanish. When appealing these judgement Ms. Francisco proved that her declaration in Spanish was fabricated and that materially it was impossible for her to kidnap six Federal Agents who were armed. Given these violations in the process, the Attorney's General Office was unable to present new charges against Ms. Francisco who asked this office the reparation of damages that were caused to her due to false allegations. The office of the Attorney General refused to pay these damages.

Ms. Jacinta Francisco Morales entered a lawsuit in the Federal Administrative Court of Justice demanding the payment of the damages caused for the time she was in prison. The Administrative Court issued a judgement compelling the Attorney's General Office to pay a compensation for the more than three years she could not work because she was in prison, the moral damage, the physical and moral impact and the fact that her hometown stopped respecting her. The judgement also compelled the office of the Attorney General to issue a public apology acknowledging her innocence.

As we can see this Court despite being part of the Mexican Executive Power, is impartial when it comes issuing its own judicial decisions and the judgement in favor of Ms. Francisco leaves a good precedent as in the future the Administrative Court will be able to order compensation for damages in favor of individuals that were unfairly imprisoned. Judges of this Court are expecting to issue case-law in which the State is compelled to pay for the damages done to individuals. Also this judicial decision proves the importance of the Administrative Court in correcting the arbitrariness of every federal mexican authorities toward the individuals which can have the certainty that they will obtain an impartial and fair judgement.

## **Trump warns of Iranian nuclear threat on visit to Israel.**

US President Donald Trump has begun a visit to Israel by warning of the threat posed by Iran if it acquires nuclear weapons. He flew in from Saudi Arabia, a key US ally, where he gave a speech to Arab and Muslim leaders at a summit. He has called an Israeli-Palestinian peace agreement "the ultimate deal" but has been vague about what form it should take, saying he prefers to leave it to both sides to decide between them in direct talks. <http://money.cnn.com/2017/04/03/news/economy/mexico-pivots-eu-trade-talks/index.html> 22/05/2017.

## **Citigroup Agrees to \$97.4 Million Settlement in Money Laundering Inquiry.**

For years, Citigroup employees feared that millions of dollars the bank was moving to Mexico might be suspicious. Yet in many cases, the bank did not alert regulators or step up its monitoring for money laundering, federal prosecutors said Monday. Even as the Citigroup unit Banamex USA was growing to dominate remittances from the United States to Mexico, the bank did not properly safeguard its systems from being infiltrated by drug money and other illicit funds, prosecutors said. [https://www.nytimes.com/2017/05/22/business/dealbook/citigroup-settlement-banamex-usa-inquiry.html?rref=collection%2Fsectioncollection%2Famericas&action=click&contentCollection=americas&region=stream&module=stream\\_unit&version=latest&contentPlacement=3&pgtype=sectionfront](https://www.nytimes.com/2017/05/22/business/dealbook/citigroup-settlement-banamex-usa-inquiry.html?rref=collection%2Fsectioncollection%2Famericas&action=click&contentCollection=americas&region=stream&module=stream_unit&version=latest&contentPlacement=3&pgtype=sectionfront) 22/05/2017.

## **China Strengthens Cybersecurity Law.**

The U.S. and North Korea both showed off their military prowess on Tuesday as nations in the region stepped up diplomatic talks to defuse a brewing crisis over Kim Jong Un's nuclear program. With nuclear-powered USS Michigan in the South Korean port and an aircraft carrier near the Korean Peninsula, President Donald Trump is seeking to maximize pressure on Kim's regime to give up its nuclear program. China has sought to calm tensions on the Korean Peninsula by emphasizing diplomacy. <http://es.euronews.com/2017/05/29/china-refuerza-la-ley-de-ciberseguridad> 29/05/17.

## **A region-by-region breakdown of where the Fed sees the economy now.**

The U.S. economy continued growing at a steady, from April to May, according to the Federal Reserve's (Fed) latest survey of regional economic conditions. That pace helped keep inflation in check, according to businesses in the central bank's 12 regional districts. Due to the economic improvement, the Fed has tightened interest rates after it held them near zero for almost a decade post crisis. Employment and wages grew at a modest level to continue with the steady grow, and unemployment rate kept low for 10 years in a row. <http://www.cnbc.com/2017/05/31/economy-is-slow-and-steady-growth-with-little-sign-of-inflation.html> 31/05/17.

## **Wall Street has more bad news for OPEC: 2018 doesn't look great.**

Oil prices have fallen despite OPEC'S efforts to shore up world crude markets, Wall Street has bad news to the sector, the odds in 2018 aren't positive. Oil futures have lost 8 percent since the OPEC and its allies agreed to keep output constrained through the first quarter of 2018. The banks predict that resurgent supplies from U.S. shale drillers and fading growth in fuel demand mean that world oil markets could face another overhang. American oil explorers, having learned to operate more efficiently during a two-year market slump, have restored almost all the output lost during the downturn. <https://www.bloomberg.com/news/articles/2017-06-02/wall-street-has-more-bad-news-for-opec-2018-doesn-t-look-great> 02/06/2017.

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