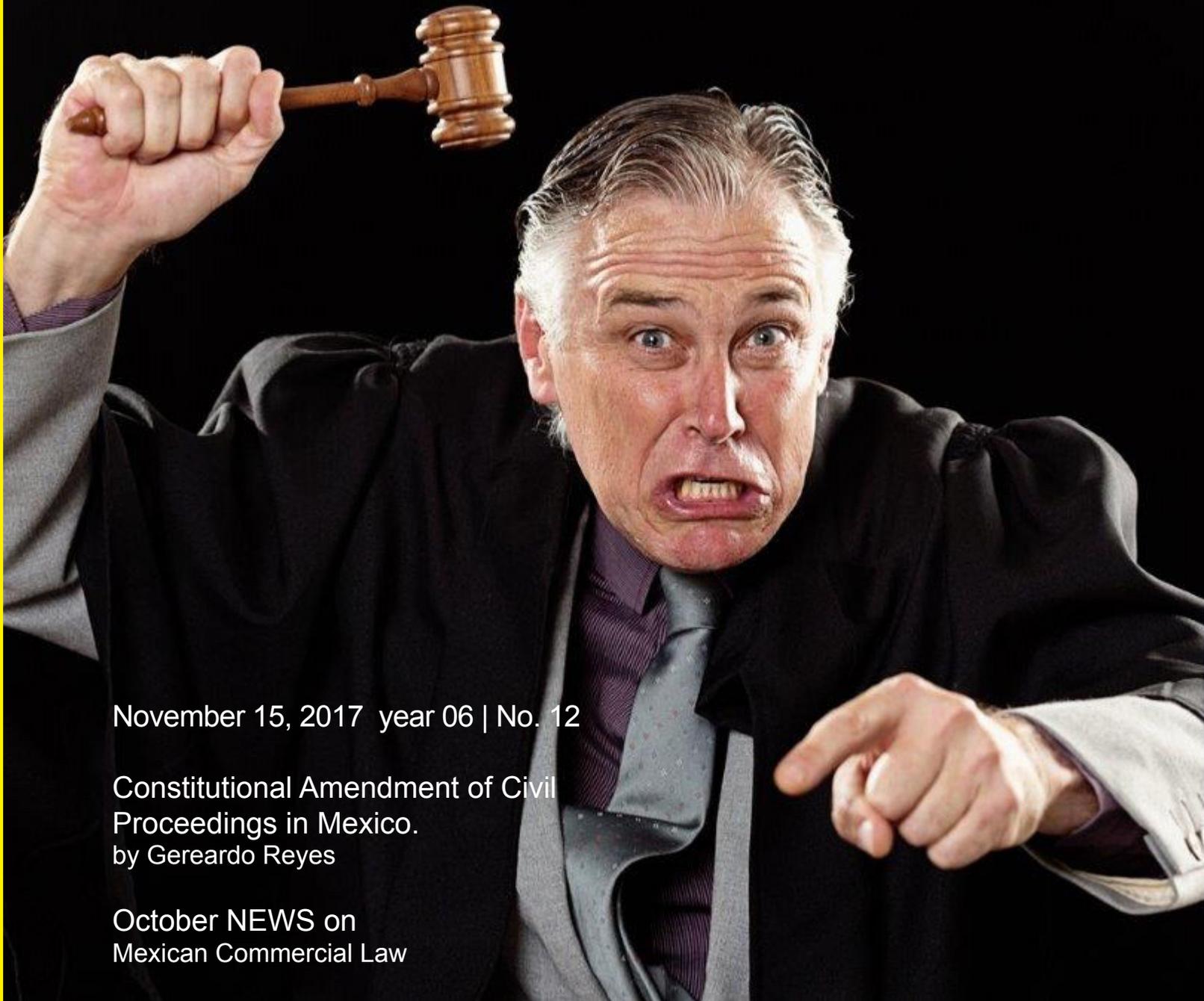


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Constitutional Amendment of Civil Proceedings in Mexico.
by Gereardo Reyes

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

Constitutional Amendment of Civil Proceedings in Mexico.

by Gerardo Reyes

The Mexican Constitution¹ enacted in February 05, 1917 by the Mexican President Venustiano Carranza is still considered a law that is extremely difficult to modify, despite that the Mexican Constitution has suffered two hundred and thirty-two modifications; the first one on July 08 of 1921.² In this brief analysis we will study the latest Constitutional amendment.

The aim of the last Mexican Constitution Amendment was to bestow the Mexican Congress with the drafting authority to prepare a sole civil code that regulates all civil proceedings through all the country. Mexico is a country divided by 31 Federative Entities and one Federal District³ that nowadays is known as Mexico City.⁴ Before the analyzed amendment, it is important to note that each federal entity has its own civil proceeding regulation. This civil law regime contrasts with the commercial regulation because the Commerce Code that regulates the judicial trade proceedings applies at the federal level to all entities of the country since it was enacted on September 1889 by the Mexican President Porfirio Diaz.⁵

Based on article 135 of the Mexican Constitution the Mexican Congress approved the Constitutional Amendment to modify articles 16, 17 and 73 of the Mexican Supreme Law. These modifications were published on September 15, 2017, one day before to the commemoration day of the Mexican' Independence in order to create a sole code of civil proceedings that prioritize conflict resolutions over legal formalities.

"The aim of the last Mexican Constitution Amendment was to bestow the Mexican Congress with the drafting authority to prepare a sole civil code that regulates all civil proceedings through all the country."

Article 16 of the Mexican Constitution states that no-one may be subject to any restriction to its person, except in accordance with a written order from the competent legal authority. The Mexican Congress decided to add the following statement to that article:

"...In Judicial and Administrative Proceedings in which orality is established as a rule, it will suffice that it be recorded in any source that gives certainty of its content and compliance with the provisions of this paragraph..."⁶

Also, the Mexican Congress adds the following statement to the article 17 of the Mexican Constitution:

"...ensuring the procedural equity, the due process and other fundamental rights at Judicial and Administrative Proceedings, all the authorities must seek the conflict resolution mechanisms over legal formalities..."⁷

As we can see the modifications to articles 16 and 17 of the Mexican Constitution were made to improve the civil

1.- Constitución Política de los Estados Unidos Mexicanos, Published in the Federal Official Journal on February 05, 1917.

2.- The first Mexican Amendment empower the Mexican Congress to establish schools in rural areas. Source: http://www.diputados.gob.mx/LeyesBiblio/sumario/CPEUM_sumario_crono.pdf

3.- Article 43 of the Mexican Constitution.

4.- The "Federal District" of Mexico changed its legal name to "Mexico City" on January 2016.

5.- First Transitory Article of the Mexican Commerce Code.

6.- http://dof.gob.mx/nota_detalle.php?codigo=5497456&fecha=15/09/2017&print=true

7.- Idem.

proceeding regulations through two means. The first one is to prioritize oral proceedings and the second one tries to avoid the exaggerated formalities of proceedings regulations that block the judicial and administrative proceedings.

Before the Constitutional Amendment, the judiciary power issued two relevant precedents⁸ that states the preponderance of the substantive rights over the procedural rights. The standards proposed by the Third Collegiate Tribunal of Mexico City helped the Mexican Congress to prepare positive modifications to the Supreme Law because these precedents improve the judicial practices.

“Before the Constitutional Amendment, the judiciary power issued two relevant precedents that states the preponderance of the substantive rights over the procedural rights.”

On the other hand, article 73 of the Mexican Constitution lists the responsibilities and powers of the Mexican Congress. Before this amendment, the Mexican Congress was not empowered to issue a sole civil proceeding law which regulates over the Mexican territory, as this task was reserved as an exclusive faculty of the local congresses of each Federative Entity within the Mexican United States.

The idea to prepare a single civil proceeding law on Mexico came up in order to standardize the judicial proceedings across the country. The civil proceeding laws of the Mexican Federative Entities foresees different timeframes, different legal remedies and diverse legal figures that cause confusion to the people who practice law in Mexico.

The amendment of the article 73 came into full force and effect the following day of the publication of the amendment, which means that the Mexican Congress is now empowered to regulate the sole civil proceeding law. Also, the amendment obliges Congress to issue the sole civil proceeding law within the following 180 days after the amendment publication.

The amendments of the constitutional articles 16 and 17 will come into force on the 180 following days after the publication of the amendment and, during such timeframe Local Congresses must modify their regulations in order to make the change of civil proceedings regime possible.

Other positive provisions, included under the transitory articles of the studied constitutional amendment, establish that all the trials filed before the expedition of the new sole civil proceeding law, shall be filed with the applicable regulation at the moment of the filing. Furthermore, in case the Mexican Congress fails to comply with the obligation to issue the unique civil proceeding law, all the trials will be solved according the applicable regulation at the moment of the filing.

“The idea to prepare a single civil proceeding law on Mexico came up in order to standardize the judicial proceedings across the country.”

The constitutional amendment on civil proceedings is one of the positive consequences of the constitutional amendment on human rights in 2011 because the most important objective of the human rights amendment was to guarantee human dignity and a unique regulation of civil proceedings that privilege substantive rights over the procedural rights, and this latest constitutional reform achieves the goal.

8- Precedent number:2002388 of the Third Collegiate Tribunal of Mexico City, December 2012.

Precedent number:2002432 of the Third Collegiate Tribunal of Mexico City, December 2012.

Nafta Talks Extension May Make for Slow, Painful Demise.

The North American Free Trade Agreement looked like it might be headed for a quick demise. Now, it could be headed for a slow, painful one. The United States, Canada and Mexico said on Tuesday that they would extend Nafta negotiations into next year, with the parties citing "significant conceptual gaps" in how to rewrite the 1994 trade pact. Negotiators, struggling to find agreement on some of the thorniest provisions of the trade deal, will take an extended break to consult with politicians and interest groups before convening again in Mexico City for the fifth round of talks in mid-November. The trade talks, which were supposed to wrap up by year-end, have now been extended into the first quarter of 2018, the parties said. https://www.nytimes.com/2017/10/17/us/politics/nafta-negotiators-extend-talks-delaying-its-expected-demise.html?ref=collection%2Fsectioncollection%2Famericas&action=click&contentCollection=americas®ion=stream&module=stream_unit&version=latest&contentPlacement=30&pgtype=sectionfront 17/10/2017.

Trump expected to name Jay Powell to replace Janet Yellen as Fed chief.

Donald Trump is expected on Thursday to appoint Jerome "Jay" Powell as the new head of the Federal Reserve, the world's most powerful central banker. Powell, a current member of the Federal Reserve board, had been widely tipped as Trump's choice but the president teased the appointment as if announcing a new reality TV show. <https://www.theguardian.com/business/2017/nov/02/jay-powell-federal-reserve-janet-yellen> 27/10/2017.

USB stick found in West London contained Heathrow security data.

Detailed security arrangements for London Heathrow airport, including the Queen's precise route every time she passes through, were found on a USB stick left in a West London street, according to reports. Having plugged the stick into a computer, the man found a treasure trove of what appeared to be security-related documents, including routes and timings of security patrols, types of ID needed to access restricted areas, maps of CCTV cameras and otherwise hidden access shafts onto the Heathrow Express railway line that runs under the airport. https://www.theregister.co.uk/2017/10/30/heathrow_usb_security_blunder/ 30/10/2017.

Eurozone growth exceeds expectations.

The eurozone's economy grew by 0.6% in the three months to September, above analysts' expectations, according to EU statistics office Eurostat.

For the past 12 months, the growth rate was 2.5%, Eurostat said. Last month, the European Central Bank (ECB) raised its 2017 growth forecast for the 19-nation eurozone to 2.2%, the fastest in 10 years. Eurostat also said eurozone unemployment was 8.9% in September, the lowest rate for nearly nine years. The overall message from these figures reinforces the picture of a eurozone economy that is, at last, gaining some strength. It's a reasonably good growth figure and the gradual decline in unemployment continues. <http://www.bbc.com/news/business-41815708> 31/10/2017.

Spanish prosecutor requests European arrest warrant for Puigdemont.

Spain's state prosecutor has asked a judge to issue a European arrest warrant for the deposed Catalan president Carles Puigdemont and four of his former regional ministers after they failed to return from Belgium to testify in court. Puigdemont, who is currently in Brussels, had been summoned to attend Spain's national court to give evidence on Thursday and Friday. He and 13 other members of his ousted administration could be charged with rebellion, sedition and misuse of public funds over the Catalan parliament's decision to declare regional independence last week. <https://www.theguardian.com/world/2017/nov/02/spanish-court-question-catalonia-separatists-except-puigdemont> 31/10/2017.

Japan's parliament re-elects Shinzo Abe as prime minister.

Abe easily won the race Wednesday with 312 votes in the 465-seat lower house. He is expected to reappoint the same ministers to his Cabinet later in the day. The 63-year-old Abe dissolved the lower house in late September to force an election. Political analysts saw the move as an attempt to win a fresh public mandate and re-establish his hold on power after a plunge in his approval ratings last summer. <http://www.foxnews.com/world/2017/11/01/japans-parliament-re-elects-shinzo-abe-as-prime-minister.html> 31/10/2017.

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