

TERRUM

Freeze first, think later; The SCJN Validates the UIF's Power to Freeze Bank Accounts Without Judicial Order

By Carlos Sierra De la Peña

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

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The 6th of April of 2026 marked an important day in the history of the Mexican financial system. On this day, the Plenary of the Supreme Court (*Suprema Corte de Justicia de la Nación* ("SCJN")), by a majority of six votes against three, resolved Constitutional Challenge (*Acción de Inconstitucionalidad*) 58/2022, together with Direct Amparo (*Amparo Directo*) 14/2025 and Direct Amparo on Review (*Amparo Directo en Revisión*) 6320/2024, declaring constitutional Article 116 Bis 2 of the Credit Institutions Act (*Ley de Instituciones de Crédito* (also known as "LIC")) and decreeing that the Financial Intelligence Unit (*Unidad de Inteligencia Financiera* ("UIF")) has the authority to freeze private bank accounts without having to first seek a judicial order, without the oversight or overall participation of the Public Prosecutor's Office (*Ministerio Público*) and without a request from any foreign authority.

So long as the UIF determines that *"there are indications of domestic crimes such as money laundering or terrorist financing"* they can act entirely unilaterally to freeze the assets of private citizens.

This initiative represents a drastic departure from the established doctrine advanced by *Tesis 2a./J. 46/2018 (10a.)* – the so-called *"Medina Mora Standard"* and *Tesis 2a./J. 101/2024 (11a.)*². Guided by these works, the Second Chamber had previously reserved the freezing of private accounts to cases in which a foreign authority *explicitly requested [their freezing] and clearly specified the actions and measures that the requesting State intended to take*³.

The Plenary justified this departure by arguing that requiring *such a detailed foreign request unjustifiably limits Mexico's ability to fulfil its international obligations and creates an unnecessary obstacle to the UIF's ability to combat money laundering and other crimes in a timely manner*⁴.

While Mexico's need to streamline similar processes is undeniable, the April 6th initiative has raised multiple serious concerns regarding the protection of fundamental rights under the Political Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos* ("CPEUM")) and the international instruments that form part of the constitutional bloc by virtue of Article 1 CPEUM.

This article aims to analyse these pressing concerns.

Legal Framework

The power to freeze accounts is rooted in two provisions of the LIC: Article 115 and Article 116 BIS.

Article 115 of the LIC requires credit institutions to suspend the operation of accounts held by anyone who finds themselves on the List of Blocked Users (*Lista de Personas Bloqueadas (LPB)*). This list is a confidential register managed by the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público* ("SHCP")) through the UIF. While this article does not explicitly grant the power to suspend or freeze accounts, it is a vital legal basis that establishes the Anti-Money Laundering Regime.

Article 116 Bis 2 is behind the regulation of the procedure. Per its provisions, the UIF may include any natural or legal person in the LPB when it has *sufficient evidence that they are related to the crimes of terrorist financing, transactions involving proceeds from illicit sources, or crimes associated with the aforementioned offences*.⁵

The credit institution is responsible for notifying the affected party, who then has 5 business days to request an audience. The UIF must then grant it in ten business days and resolve within fifteen.⁶

1.- <https://www.jornada.com.mx/noticia/2026/04/06/politica/valida-corte-a-uif-bloquear-cuentas-sin-intervencion-del-mp-orden-judicial-ni-solicitud-extranjera>
 2.- <https://www.proceso.com.mx/nacional/2026/4/6/corte-abandona-criterio-medina-mora-confirma-que-la-uif-podra-bloquear-cuentas-sin-orden-judicial-371688.html>
 3.- <https://www.internet2.scjn.gob.mx/red2/comunicados/comunicado.asp?id=8471>
 4.- Ibid.
 5.- https://www.diputados.gob.mx/LeyesBiblio/pdf_mov/Ley_de_Instituciones_de_Credito.pdf
 6.- <https://www.informador.mx/mexico/la-scjnc-avala-que-la-uif-congele-cuentas-sin-orden-judicial-20260407-0021.html>

- The detailed mechanics are completed by Rules 70^a, 71^a, 72^a and 73^a of the *Disposiciones de Carácter General a que se refiere el Artículo 115 de la LIC* (SCJN, Comunicado 8471).

In sum, the legal framework therefore creates a system of *post hoc* defence, where assets are frozen before the affected party can be heard by the competent authorities and is given an opportunity to set the record straight.

Reasoning of the Court

The majority concluded that freezing bank accounts constitutes an *administrative precautionary measure aimed at preventing risks to the financial system*, rather than a punitive sanction, as it does not equate to a criminal conviction or a declaration of guilt^{7,8}. Seeing as no criminal liability is being adjudicated, and no property is being expropriated, but rather, frozen in place, the majority ruled that no prior judicial intervention is needed.

The Court also reasoned that effectuating the freezing of accounts based on express solicitations by foreign authorities constitutes a compromise of national sovereignty, and that this ultimately hinders Mexico's compliance with the provisions of the Palermo Convention, the International Convention for the Suppression of the Financing of Terrorism and FATF Recommendations 4 and 40⁹.

The Ministers Yasmín Esquivel Mossa, Giovanni Figueroa Mejía and Arístedes Guerrero García dissented on these precise points, arguing that the longstanding interpretation, which labelled account freezing as constitutional explicitly in cases where the measure complies with international commitments¹⁰. The Dissent unequivocally challenged this measure by arguing that judicial certainty would simply cease to play a role in these proceedings, as no motive or term is to be specified when freezing an account, making ample space for abuse by authorities¹¹.

Rights Affected

A. Presumption of Innocence (Art. 20, section B, fraction I CPEUM)

Under Article 20, section B, fraction 1 CPEUM, and Article 8(2) of the American Convention on Human Rights ("ACHR"), the presumption of innocence requires that an individual be deemed innocent until a judge or other competent authority declares the party's guilt through formal proceedings and sentencing.

As mentioned above, the SCJN maintains that the freezing of an account does not constitute a declaration of guilt. An assessment of the materiality of this claim is vital to this analysis. The reality is that preventing individuals from accessing their personal funds based on the UIF's unilateral assessment and gathering of what the department might deem to be sufficient indicia puts the traditional requirements of burden of proof on its head.

As Minister Giovanni Figueroa Mejía observes, these measures are not merely administrative in nature but entirely punitive, as they inherently involve an investigation into criminal activities and *subject the person/individual to a punitive consequence based on mere suspicion*¹².

B. The Right to Prior Hearing (Art. 14 CPEUM)

Per Article 14, second paragraph, CPEUM, establishes the right of all Mexicans to a hearing before their liberty, rights, or possessions are removed. That said, the Court has found a way to justify its actions and to circumvent this essential right. Basing their arguments on the provision of Article 16 CPEUM, the court has held that freezing bank accounts does not constitute a deprivation of property under Article 14, but rather an Act of Authority (*acto de molestia*) (Art. 16 CPEUM).

7.- <https://www.internet2.scjn.gob.mx/red2/comunicados/comunicado.asp?id=8471>

8.- <https://politica.expansion.mx/mexico/2026/04/06/scjn-avala-que-la-uif-bloquee-cuentas-bancarias-sin-orden-judicial>

9.- <https://zetatijuana.com/2026/04/scjn-avala-bloqueos-bancarios-de-la-uif-con-origen-nacional-sin-requerir-solicitud-extranjera/>

10.- <https://www.jornada.com.mx/noticia/2026/04/06/politica/valida-corte-a-uif-bloquear-cuentas-sin-intervencion-del-mp-orden-judicial-ni-solicitud-extranjera>

11.- Ibid.

12.- Ibid.

Briefly, an Act of Authority, or *acto de molestia*, in this context, constitutes an exercise of public authority that disturbs an individual's rights without constituting a definitive deprivation, and therefore is not subject to Article 14 CPEUM's requirement of a prior hearing. Importantly, however, Acts of Authority are not automatically beyond the scope of the CPEUM. Article 16 states that every Act of Authority must be issued in writing, by a competent authority, and must be grounded in an explicit legal basis and supported by a reasoned articulation of the factual circumstances that justify the measure¹³. A unilateral determination by the UIF that "*sufficient indicia*" exists, and not following up on their obligation to communicate with the affected party the specific evidentiary and legal basis on which the act stands is inherently conflictive with the plain language of the CPEUM.

In practice, it is irrelevant to label a measure as preventive when the actual result is months-long deprivation of access to private funds and patrimony. Vital to this assertion is Minister Esquivel's highlighting that a bank account can be frozen without specifying the cause or the term of the freeze, which, again, can lead to abusive behaviour on behalf of the authorities¹⁴.

C. Effective Judicial Protection (Article 17 CPEUM and Articles 8 and 25 ACHR)

The right to effective judicial protection (*tutela judicial efectiva*) implies not only access to a remedy but access to a timely and effective one^{15,16}. There are a number of options which a citizen may choose: requesting an audience before the UIF, annulment proceedings (*juicio de nulidad*) before the Federal Administrative Court (*Tribunal Federal de Justicia Administrativa*), and Amparo proceedings (*Juicio de Amparo*)¹⁷. Importantly, however, most, if not all of these avenues are anything but timely. In practice, any of these attempts to seek effective judicial protection may take months, if not years. Someone who has been prevented from accessing funds might see their businesses and entire livelihoods completely paralysed. The structural asymmetry between an immediate freeze and a slow judicial review is hard to reconcile with Article 25 ACHR's requirement of a prompt and effective recourse¹⁸.

Practical Implications

According to the head of the UIF, Omar Reyes Colmenares, approximately 5,000 accounts are presently immobilised under this regime, and 500 persons or entities have been added to the LPB during 2026¹⁹. The reach of the majority's decision can and likely will be felt by most sectors of society. Anyone who holds a bank account is at risk of it being frozen, including foreign investors operating in Mexico. The threshold for inclusion is low ("*sufficient indicia*"), the procedure is opaque to third parties, and the burden of restoration falls on the affected party. The decision also reshapes the calculus for cross-border financing: lenders, lessors and security trustees will need to revisit collateral arrangements and account-control mechanisms in light of the heightened risk of unilateral immobilisation²⁰.

Conclusion

The Court's decision provides the State with an effective tool, but it does so by shifting the relationship between executive power and individual rights in a direction that the Constitution, on its face, does not invite. The SCJN frames this measure as an administrative one, not a sanction. Unfortunately, this administrative measure is based entirely on suspicion rather than proof. Those affected can be granted a later audience, rather than a prior hearing. For now, the practical reality is unambiguous: in Mexico, as of 6 April 2026, an account holder may lose access to their patrimony before they are told why.

13. <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.diputados.gob.mx/LeyesBiblio/pdf/CPEUM.pdf>

14.- Ibid.

15.- <https://www.diputados.gob.mx/LeyesBiblio/pdf/CPEUM.pdf>

16.- https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf

17.- <https://www.internet2.scjn.gob.mx/red2/comunicados/comunicado.asp?id=8471>

18.- https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf

19.- <https://www.excelsior.com.mx/nacional/bloqueos-bancarios-no-discrecionales-reyes-colmenares>

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