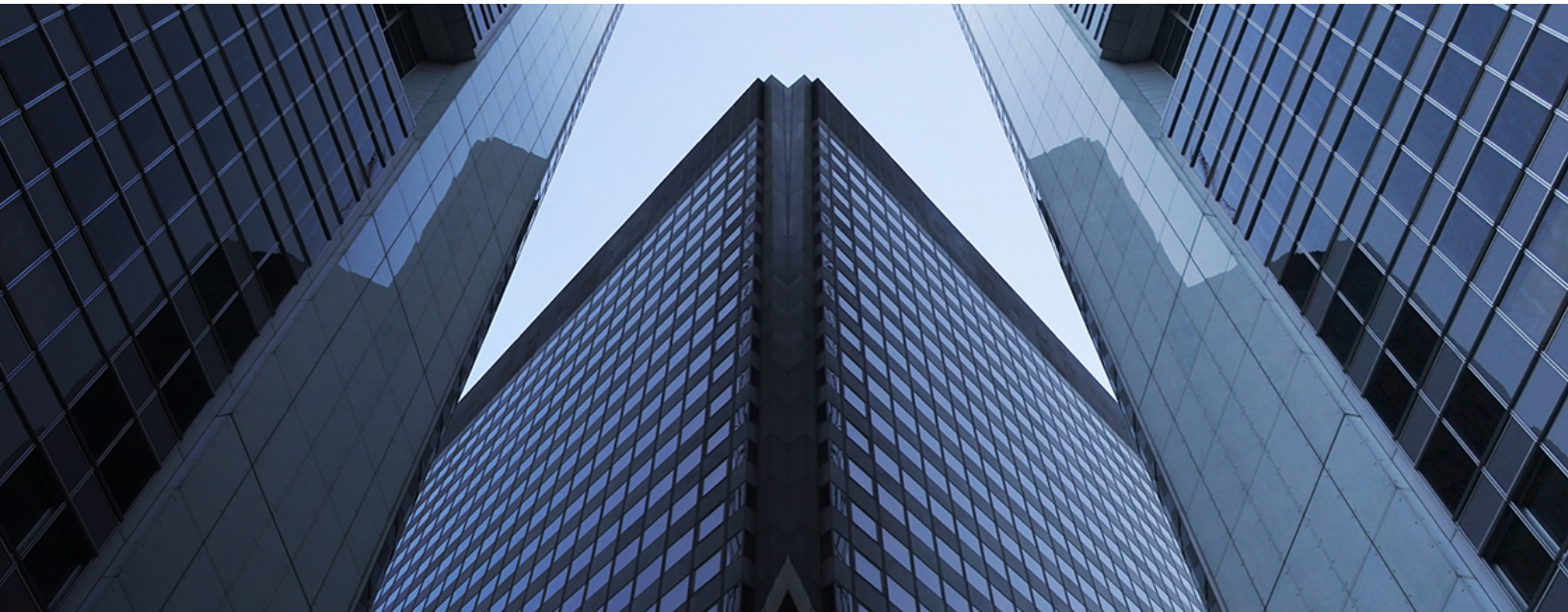


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Real Estate, Infrastructure and Hospitality Practice and Litigation and Alternative Dispute Resolution Practice Group Joint Newsletter



Mexican Supreme Court invalidated several provisions of the Asset Recovery Law for Mexico City

On September 10, 2020, the SCJN ruled on the Unconstitutionality Actions 159/2017 and 160/2017, filed by the Attorney General's Office (as it was known in 2017) and the Human Rights National Commission.

In the Plenary Session, the SCJN invalidated articles 2 fr. 18; 5th, fifth paragraph, and 39th, third paragraph, of the Asset Recovery Law for Mexico City (it is important to note that said Law was abrogated as of August 10, 2019).

The resolution of the SCJN will apply only to the requests and procedures that are still pending resolution, and that were filed based on the Asset Recovery Law for Mexico City prior to the entry into force of the Asset Recovery Law that entered into force on August 10, 2019.

The first provision invalidated by the SCJN of the Asset Recovery Law for Mexico City was article 2 fr. 18, according to which human trafficking would be understood as defined in Mexico City's Criminal Code.

Said provision was declared invalid, since the applicable norm to define said crime is the General Law to Prevent,

Sanction and Eradicate Human Trafficking Crimes, and for the Protection and Assistance to the Victims of such Crimes.

The second provision invalidated by the SCJN was the article 5th, fifth paragraph, according to which the extinction of domain could be enforced with respect to property used for the commission of crimes by a third party, if the owner had knowledge of said crimes and did not notify the authority or do something to prevent the commission of said crimes. This applies when the Criminal Prosecutor proved that the third party used the property to commit kidnapping, human trafficking or theft of vehicles and the owner had knowledge of this fact.

In accordance with the SCJN resolution, said fifth paragraph was invalidated because it restricted the action of extinction of domain to only three of the five crimes established in the Political Constitution of the United Mexican States for such purposes (article 22 of the Constitution in force in 2017).

The third provision invalidated by the SCJN was article 39, third paragraph, in its normative portion, according

to which it was established that against the order that admits the exercise of the action, no appeal proceeds. And against the order that denies it, an appeal recourse applies.

In accordance with the SCJN resolution, said third paragraph was invalidated because it violates due process.

Due to the foregoing, all the procedures that are still pending to be resolved since before the abrogation of the Asset Recovery Law for Mexico City that deal with or apply the provisions invalidated by the SCJN mentioned above, must be interpreted considering this resolution.

Learn more about this in the [following link \(SCJN Plenary Session\)](#).

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