

A Collegiate Court Declared that Pemex's Policy Restricting Contracts with Companies Involved in Litigation is Unconstitutional

On February 27, 2026, a judicial precedent was published in the Federal Judicial Gazette (*Semanario Judicial de la Federación*), declaring that the provision of the Policies and Guidelines for the Development of Due Diligence in Petróleos Mexicanos, its Subsidiary Production Companies and, where applicable, Affiliated Companies, in matters of Corporate Ethics and Integrity (*Políticas y Lineamientos para el Desarrollo de la Debida Diligencia en Petróleos Mexicanos, sus Empresas Productivas Subsidiarias y, en su caso, Empresas Filiales, en materia de Ética e Integridad Corporativa*) ("**Pemex's Policies**"), which prevented Pemex from entering into new contracts with individuals or companies that had a pending lawsuit against Pemex and its companies, is unconstitutional because it violates the principles of legality and legal certainty.

I. The provision of Pemex's Policies and Guidelines

In 2021, the Directorate General of Pemex issued Pemex's Policies. In accordance with section III.1.6.2 of said Pemex's Policies, the existence of a lawsuit against Pemex and its companies would be grounds for not issuing a favorable due diligence opinion for the conclusion or continuation of commercial agreements with third parties and, therefore, grounds for not entering into or continuing with contracts.

In recent years, this provision has had a deterrent effect on Pemex's creditors, who were reluctant to file claims and initiate proceedings against Pemex, even when there were clear breaches on its part, given that this would mean that other commercial agreements would not be continued and new contracts could not be signed.

In 2023, the Directorate General of Pemex issued an amended version of Pemex's Policies. However, section III.2.6.2.3 of these policies maintained the aforementioned grounds for not issuing a favorable due diligence opinion for the conclusion or continuation of commercial agreements with third parties and included that the existence of a lawsuit or proceedings against Pemex, in Mexico or abroad, would be grounds for not issuing a favorable due diligence opinion.

II. The declaration of unconstitutionality

On February 27, 2026, the Federal Judicial Gazette published a legal precedent, under the number I.10o.A.60 A (11a.), issued by the Tenth Collegiate Court for Administrative Matters in Mexico City, declaring unconstitutional the provision of the 2021 Pemex's Policies that prevented the conclusion or continuation of commercial agreements with individuals or companies that had a lawsuit pending against Pemex.

The case stemmed from an administrative procurement procedure with Pemex, held in connection with an international open digital tender, in which the contract was awarded to a legal entity, on the condition that the signing of the contract was subject to a Due Diligence Legal Opinion.

The opinion issued was of non-viability, based on the 2021 version of Pemex's Policies, because the company had a pending lawsuit against Pemex and its companies. Against this ruling, the company filed an indirect amparo lawsuit, which was resolved on review by the Collegiate Court that issued the precedent.

The Collegiate Court held the following:

- The provision violates the principles of legality and legal certainty set forth in Article 16 of the Political Constitution of the United Mexican States because it makes the signing of the contract conditional on the third party awarded the contract not having any pending lawsuits against Pemex.
- The provision goes beyond the objective pursued by Pemex's Policies, which is to have elements in place to strengthen decision-making on the advisability of entering into or maintaining business relationships with any third party, and to define responsibilities and promote a process among Pemex staff and its companies that allows for the investigation of third parties.
- There is no objective reason that justifies the requirement that there be no lawsuits against Pemex in order to strengthen decision-making on the advisability of entering into or maintaining business with any third party and mitigating risks.

Being deemed unconstitutional, the provision of the 2021 version of Pemex's Policies preventing a company with pending lawsuits from entering into or continuing commercial agreements could not be applied.

Although this is an isolated precedent, which is not yet binding, and it refers to the 2021 version of the Pemex's Policies —*amended in 2023*— it serves as a guideline that would allow a reasonable challenge to an opinion of non-viability against a company that has a pending lawsuit against Pemex, issued under the 2023 version of Pemex's Policies. Should you have any questions or require further information, please do not hesitate to contact our experts:

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