

Long term restriction for public officers to work in private sector declared unconstitutional

On April 4, 2022, the Mexican Supreme Court of Justice (the “**Supreme Court**”) began the analysis of the provisions challenged by Senators of the Republic to the Federal Law of Republican Austerity (“**FLRA**”), in the constitutional review with docket number 139/2019.

During the session of April 4, 2022, the Supreme Court unanimously declared invalid the second paragraph of Article 24 of the FLRA. This article establishes that public officers who have held senior management positions and that are no longer in office may not hold positions in private companies that they have supervised, regulated or with respect to which they have had privileged information for a period of ten years.¹

The Court declared this restriction invalid because this measure has a disproportionate, unnecessary and unjustified impact on the work, profession, commerce and industry, freedoms recognized by Article 5 of the Mexican Constitution. The Supreme Court held that this provision prevents former public officers from freely rendering their services in the private sector.

The judgment has not yet been published by the Court since the discussion of the matter will continue during the next session of the Court that will analyze the other articles challenged in this constitutional challenge.

¹ **Article 24.** In order to hold any position, job or commission in any public entity, the interested persons shall be obliged to legally separate themselves from the assets and private economic interests that are related to the matter or directly affect the exercise of their public responsibilities, and that represent a conflict of interest in accordance with the provisions of the General Law of Administrative Responsibilities.

Public servants within the senior management groups referred to in the salary manual provided for in the Federal Budget and Fiscal Responsibility Law of the Federal Government, who for any reason separate from their position, may not hold posts in companies that they have supervised, regulated or with respect to which they have had privileged information in the exercise of their public office, unless at least ten years have passed.

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S I N C E R E L Y

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