



Suprema Corte  
de Justicia de la Nación

# SUPREME COURT OF JUSTICE OF THE NATION VISITOR'S GUIDE





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## I. The Federal Judicial Branch

**A**rticle 49 of the Constitution of the United Mexican States indicates that the Supreme Federal Power is divided for its exercise among the executive branch, the legislative branch and the judicial branch. In addition to the division of Powers, said article prohibits that two or more of them be vested in a single person or institution.

The Constitution states also, in its article 94 that, exercise of the Federal Judicial Power is vested on the Supreme Court of Justice of the Nation, the Elections Court., The Collegiate, Unitary and Circuit Courts and the District Courts. Whereas all these institutions are responsible to resolve jurisdictional conflicts, the Federal Judicial Power also has the Federal Judicial Board, entrusted with the administration, supervision, discipline and judicial career of the Federal Judicial Branch, except for the Supreme Court of Justice of the Nation and the Elections Court. It is also empowered to care for the autonomy of the components of the Federal Judicial Branch and for the independence and impartiality of its members. It is made up by seven board members and works when they meet or through the permanent or transitory commissions and is chaired by the Magistrate President of the Supreme court of Justice of the Nation.

On the other hand, it is important to stress that Mexico is part of the Interamerican Human Rights System and, additionally, it has adopted its jurisprudence at three outstanding moments. The first of them was

the ratification of the American Convention on Human Rights on March 2<sup>nd</sup> 1981<sup>1</sup>. The second moment was the recognition of the competence of the Interamerican Court of Human Rights in 1998<sup>2</sup>. Finally, on September 3<sup>rd</sup> of 2013, the Supreme Court of Justice of the Nation resolved thesis contradiction 293/2011 wherein it established that that the jurisprudence of the Interamerican Court of Human Rights is binding for all

Mexican judges so long as this is more favorable for the persons, regardless that Mexico is not involved in the resolutions. Next, some special features of the Supreme Court of Justice of the Nation are described in five sections. In the first one, reference will be made to the history of this High Court, in the second, its office building will be described, the third will give an account of its integration, the fourth refers to its jurisdictional competence and, finally, the forms to create jurisprudence and its mandatory observance, are presented.

<sup>1</sup> <https://www.cidh.oas.org/Basicos/Basicos3.htm>

<sup>2</sup> <http://www.oas.org/OASpage/press2002/sp/A%C3%B1o98/121698.htm>

## II. Supreme Court of Justice of the Nation

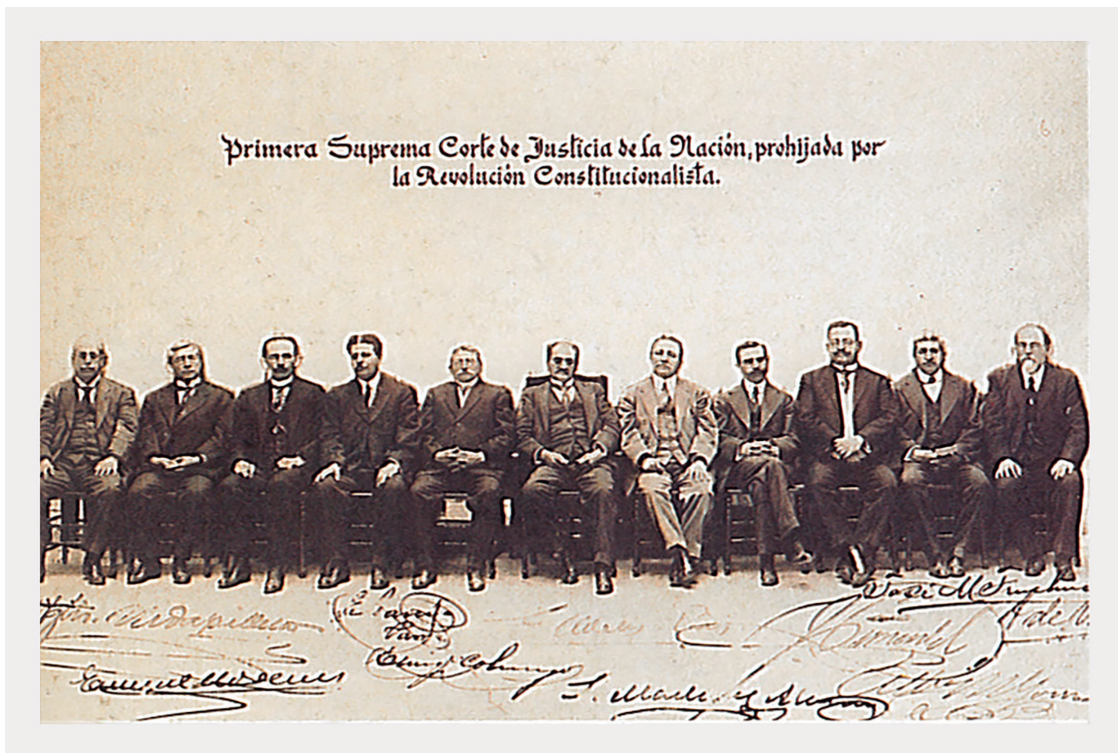
### a. History

The Supreme Court is the highest court in the country and its main function is to defend the Federal Constitution of the United Mexican States and, especially, to protect human rights. The first predecessor of the Supreme Court can be traced back to the War of Independence and the ensuing Constitution of Apatzingan of October 22<sup>nd</sup>, 1814. This Constitution created a Supreme Court as the head of Judiciary. It was made up of five justices appointed by the Union Congress for a three-year term.

The Constitution of 1824 changed the name, integration and the term in office of the justices. It ordered the creation of the Supreme Court of Justice composed of eleven justices and a prosecutor. The justices were divided in three Chambers and were appointed for life by the states' legislatures.

Subsequently, on May 30<sup>th</sup>, 1853, the Executive Order on Justice Administration was issued, in which four supernumerary justices were added to the Court, appointed by the President of the Republic and would have the same status and privileges as the regular justices.

On November 23<sup>rd</sup>, 1855 the organizational structure of the Supreme Court was transformed to be composed of two prosecutors, nine justices and five alternate justices. Later, through an Executive Order of April 25<sup>th</sup>, 1856, four supernumerary justices were added. In 1857 a new Constitution was enacted that changed the Court's composition once more. From then on, it was composed of eleven regular justices, four supernumerary justices, a prosecutor and an attorney general. The justices were elected for a six-year term through indirect elections. With the constitutional amendment of May 22<sup>nd</sup>, 1900 the Court was named the Nation's Supreme Court and its composition changed to fifteen justices.



**Justices of the First National Supreme Court**

From left to right: Enrique M. de los Ríos (President), Victoriano Pimentel, Manuel E. Cruz, Enrique Moreno, Enrique García Parra, Agustín Urdapilleta, Ignacio Martínez Alomía, Enrique Colunga, José María Truchuelo, Alberto M. González, Agustín del Valle.

After the Mexican Revolution and the promulgation of the Constitution of 1917, the method for the appointment of justices changed. Now, candidates were nominated by the Union Congress that became an electoral college in charge of electing among the nominees from the States' legislatures, returning to an integration by eleven justices. In 1928 the Constitution was amended and it was established that the Mexican Supreme Court would sit in full court or in chambers. Thus, three chambers composed of five justices each were created and the number of justices increased to sixteen. In 1934 the number of justices rose up to twenty-one and a fourth chamber was created. In 1950 the composition of the Mexican Supreme Court changed again to add five supernumerary justices that would not take part in the full court.

The last relevant constitutional amendment for the Mexican Supreme Court was published on December 31<sup>st</sup>, 1994. The composition of the Mexican Supreme Court, the number of chambers, the term of appointment, and the appointment method changed. Currently, the Mexican Supreme Court sits *En Banc* and in two chambers and is comprised of eleven justices appointed for a fifteen-year term. The justices are appointed by the Senate of the Republic from a slate of three candidates proposed by the President.

### b. Premises

On May 13<sup>th</sup>, 1929 the Ministry of Communications and Public Works called for a competition of architectural projects for the construction of the venue of the Mexican Supreme Court. The winning project was presented by Antonio Muñoz García, a member of the San Carlos Academy and president of the Guild of Architects and the Society of Mexican Architects.

On February 23<sup>rd</sup>, 1936 the construction work began in the place known as the Flying Man Square. Five years later, on June 2<sup>nd</sup>, 1941 this magnificent architectural work was inaugurated in the presence of the President of Mexico, Manuel Ávila Camacho and the justices of the Supreme Court including its Chief Justice, Salvador Urbina y Frías and other guests.



**Construction of the building venue of the National Supreme Court**





The property, venue of the National Supreme Justice Court is considered as National Patrimony. The compound has a rectangular floor plan with three levels and four large courtyards. It has a steel and reinforced concrete structure and the façade is covered with carved stone.

The main door –in *art déco style*– was made by the artist, Ernesto Tamariz, Founder Professor of the Mexican Sculpture School. It has four high-relief sections portraying different historic stages of Mexico.





On the upper-left there is a scene representing the encounter of two cultures and is called *Christianization in the XVI Century*. On one side is a friar with a cross on his chest, with an extended hand touching the head of a Spaniard soldier and the head of an indian man with the other hand. On the soldier's left side, a shield with a crowned turret and behind it, a vessel representing the arrival to America. To the right of the indian, there is a broken pre-hispanic idol, symbolizing the destruction brought by the Spanish conquerors.



On the lower-left segment there is a relief known as *The Federal Republic*. In it, the Homeland is represented as a sitting lady in a throne wearing a Phrygian cap, the symbol of liberty. On both ends, there is an indian man and a mother with her child. Facing the Homeland is the national eagle devouring a snake. To the right of the Homeland, there is a soldier making a vow and on the left side, a knight holding a pen and a book dated 1824, alluding to the first Federal Constitution



On the upper right section of the door, the scene known as *The Reform* is shown. The Homeland appears once again in the shape of a woman wearing a Phrygian cap. She is holding a book with her right hand with the year 1857 engraved, which is the year that the second Federal Constitution was issued. On her right side, former President Benito Juárez is shown holding a flag, and on his right side, there is an armed man with a spear dressed as a *chinaco*<sup>3</sup>, which represents the warrior people in the Mexican War of Independence.



Finally, at the bottom right section of the main entrance door, there is a scene called *Modern and institutional Mexico* that represents the after-period of the Mexican Revolution of 1910. In this scene, Homeland is shown protecting a laborer and a farmer with her extender arms while her cloak shelters a mother with her child in her arms and a revolutionary soldier.



<sup>3</sup> Name given to the Mexican freedom fighters during the Independence war.

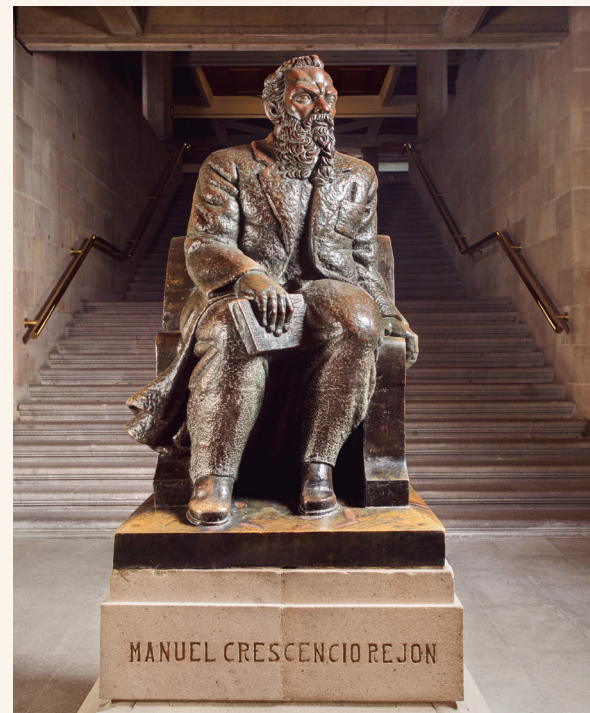




In the staircase leading to the first receiving lobby, there are two majestic bronze statutes that were also made by Tamariz in 1943. On one end, there is a statue of Ignacio Luis Vallarta, one of the most remarkable Mexican constitutionalists and Chief Justice of the Supreme Court from 1877 to 1882. On the other end, there is a statue of jurist Mariano Otero, who established the *amparo* trial in the Federal Constitution of May 18<sup>th</sup>, 1847.

On the third level foyer, there is a statue of Manuel Crescencio Rejón, considered the father of the *amparo* procedure. The sculpture was made by Carlos Bracho, a sculptor from Veracruz who was also a member of the group of nationalist artistic movement of the 30's in the 20<sup>th</sup> Century.

Several murals displaying the cultural, social and legal history of Mexico cover the inner walls of the premises of the Supreme Court of Justice of the Nation. The murals, statues, and paintings found in this High Court demonstrate the commitment with the freedom of expression, art and culture it has assumed since 1941. A brief description of the artistic works in this venue will be shown below.



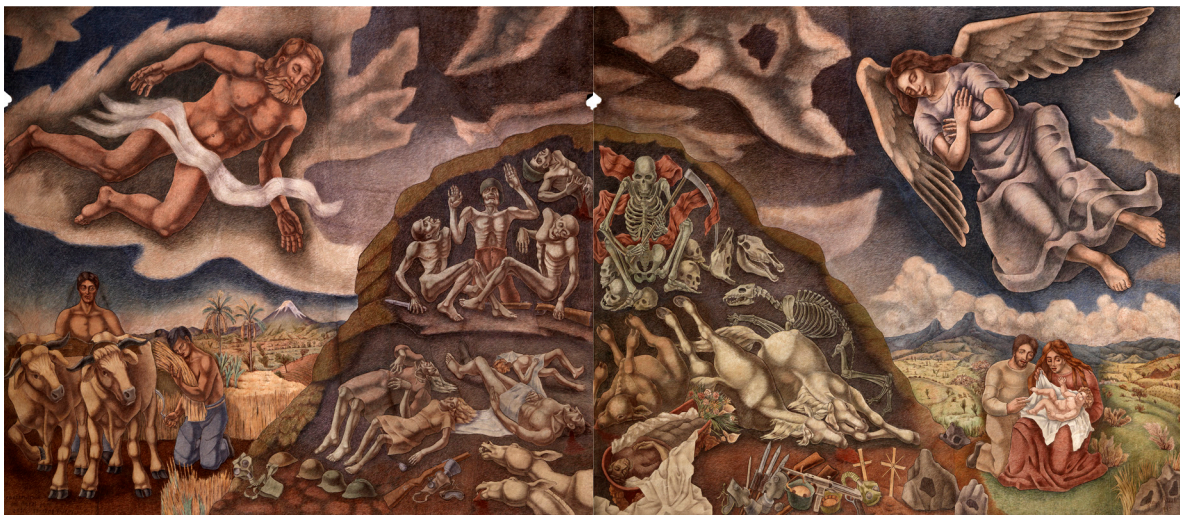




**José Clemente Orozco, *The National Wealth***

José Clemente Orozco, a world-renowned painter, was the first artist to paint a mural in the venue of the Supreme Court in 1941. His work is located in an honored place because it is in the famous *Mural's Hall*, next to the Full Court Chamber. This particular work of Orozco belongs to the second phase of his artistic life, in which more realistic figures with a high expressive

capacity can be appreciated. The master artist used the expressionist style to show the Mexican historic situation. The black and grey shades are highlighted to represent the dark side of humanity and institutions. In the Mural's Hall, there are four murals by Orozco: *The National Wealth*, *The Social Labor Movement*, *The Justice of Men* and *The metaphysical Justice*.



**George Biddle, *The war and peace***

Later, American painter, muralist, and lithographer George Biddle was invited by then secretary of Public Education in Mexico, Jaime Torres Bodet, to paint a mural in the Mexican Supreme Court, which Biddle did in 1945. On the north side of the second foyer, the-

re is the mural titled *The War and Peace*, where Biddle highlights the existence of two opposite worlds: the world of life that existing in times of peace, and the world of death that arises in times of war.





**Héctor García, *Genesis; Birth of a nation. Origins of the creation of the Nation's Supreme Court of Justice***

In 2004, Héctor García finished the artwork titled *Genesis.- Birth of a nation. Origins of the creation of the Nation's Supreme Court of Justice*, located on the first floor of the venue. This masterpiece is divided into three sections, on the left side –between a storm and light infiltrations- we see José María Morelos emitting a cry beckoning for the fight of independence. A crowd appears behind him that rises from the shadows to answer his call. In the central section, García painted a flying eagle holding the symbols of justice in its claws. Under the eagle, important historical figures of Mexico are depicted: José María Morelos y Pavón, Miguel Domínguez (Chief Justice of the Supreme Court in 1824), Manuel de la Peña y Peña (Chief Justice during the U.S. invasion in 1847), the delegates to the Constituent Congress of 1857: Ignacio Ramírez, José María Iglesias, Benito Juárez, Sebastián Lerdo de Tejada, Ignacio L. Vallarta, and finally, Venustiano Carranza who issued the 1917 Constitution. In the last section located on the right side, García shows the Independence of Mexico starring Miguel Hidalgo and the *Pípila*, a national hero in the Independence that did not hesitate to carry a long, flat stone tied to his back to protect him from the muskets of the Spanish troops.

In 2004, former Chief Justice Mariano Azuela Güitrón presented a proposal for another four murals to be painted along the stairways on the sides of the building. For this project, the graphic projects of Luis Nishizsawa, Leopoldo Flores, Ismael Ramos and Rafael Cauduro were chosen. In 2007, Chief Justice Guillermo

Ortiz Mayagoitia commissioned Santiago Carbonell, to paint a mural by the presentations room on the third floor of the venue.

Today, the powerful murals of these artists are spread in over one thousand five hundred square meters of the venue, recount the Mexican social and legal history.



**Rafael Cauduro, *Repression***





**The National Supreme Court of Justice *En Banc***

From left to right: Justice Alberto Pérez Dayán, Justice Javier Laynez Potisek, Justice Eduardo Tomás Medina Mora Icaza, Justice Norma Lucía Piña Hernández, Justice Jorge Mario Pardo Rebolledo, Chief Justice Arturo Zaldívar Lelo de Larrea, Justice Luis María Aguilar Morales, Justice José Fernando Franco González Salas, Justice Yasmín Esquivel Mossa, Justice Juan Luis González Alcántara Carrancá, Justice Alfredo Gutiérrez Ortiz Mena.

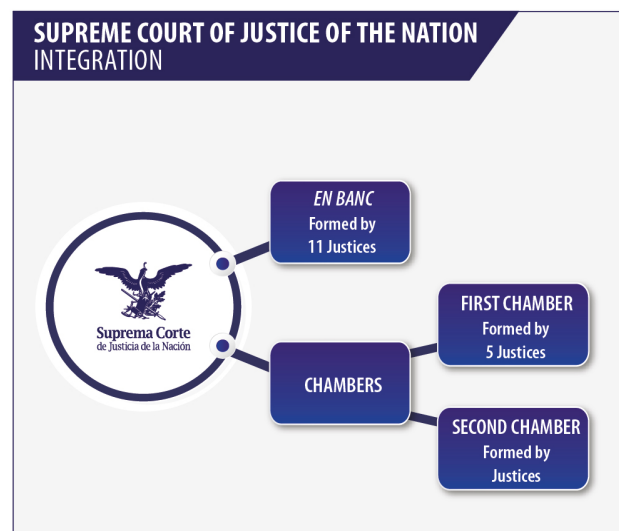
### c. Integration

As mentioned in the first section hereof, the Supreme Court is integrated with eleven Justices with one being the Chief Justice. It sits *En Banc* or in Chambers.

The Court *En Banc* gathers all eleven justices and is presided by the Chief Justice, decisions being made unanimously or by a majority vote. However, seven members of the Court constitute a quorum (save for those cases wherein a possible statement of unconstitutionality with general effects on a rule is assessed, in which case it will be necessary to have eight justices in attendance). Generally, the National Supreme Court of Justice of the Nation sits *En Banc* on Mondays, Tuesdays and Thursdays.<sup>4</sup>

The National Supreme Court of Justice has two chambers. The First Chamber deals with cases regarding civil and criminal law. The Second Chamber sees cases regarding labor and administrative law. Each one is composed of five justices, with four of them constituting a quorum

and resolutions are made unanimously or through their majority vote. The Chief Justice does not participate in these. Generally, chambers sessions of the Supreme Court of Justice of the Nation, take place on Wednesdays.<sup>5</sup>



<sup>4</sup> *En Banc* sessions of the National Supreme Court of Justice are public and can be followed live in the Internet at the following link: <https://www.scjn.gob.mx/transmision-en-vivo>.

<sup>5</sup> Stenographic versions of the sessions of the First Chamber may be consulted at: for the First Chamber: <https://www.scjn.gob.mx/prime-ra-sala/versiones-taquiograficas>; and those of the Second Chamber at: <https://www.scjn.gob.mx/segunda-sala/versiones-taquiograficas>

#### d. Jurisdiction

The National Supreme Court of Justice is the Head and Last Instance of the Federal Judiciary. Its jurisdictional work consists mainly in the resolution of the so-called "constitutional means of control". It can only resolve these issues at the request of the complaining party, this means that it needs a person to file some of the constitutionality control means to be able to exercise its jurisdiction powers. Next, some of them are mentioned and explained:

**The *amparo* procedure:** is a means of control of constitutionality that may be filed both by private persons and by authorities with the purpose to study the constitutionality of -among other things- positive and negative actions, omissions and general rules. Against the *amparo* resolutions, the parties may file a review recourse. Depending on the responsible authority and the claimed action, Amparo may be heard in either direct or indirect ways.

- i. Direct *amparo*: is admitted against definitive judgments, sentences -resolution on labor matters- and resolutions putting an end to the proceedings, which are dictated by judicial, administrative or labor courts. It is required that there are no other means of defense against them that may amend them or leave them without any effect.
- ii. Indirect *amparo*: is admitted against actions from non-jurisdictional authorities, actions from jurisdictional authorities taking place out of court or after proceedings are concluded, actions from jurisdictional authorities carried out within the proceedings which affect human rights and any rule of general observance.

Ordinary competence of the Supreme Court of Justice is in the resolution of direct *amparo* procedure's in review. In order for these two succeed, it is necessary that the constitutionality problem process and that its resolution set a precedent of importance and

transcendence for the national juridical order. Likewise, through the exercise of its powers of attraction, the Supreme Court of Justice may resolve direct *amparo* procedures in first instance and indirect *amparos* in review. In this sense, article 107 of the Constitution of the United Mexican States indicates that the National Supreme Court of Justice, either matter-of-factly or at the founded request of the corresponding Collegiate Circuit Court, of the Attorney General of the Republic or the Federal Executive, may hear the direct *amparo's* and the *amparos* under review which, due to their interests and transcendence, so deserve it. In these cases, pursuant to article 40 of the *Amparo* Law, the Full-Court or the Chamber hearing the case shall agree whether it is in order to summon the files from the Circuit Collegiate Court.

Now then, resolutions issued in the *amparo* procedures will deal only with the complainants who would have filed for them, limiting the same to defend and protect them in the special case on which the lawsuit is about.

It should be highlighted that there is an exception in the indirect *amparo* in review to the limited protection to the parties in the proceedings. Article 107 of the Constitution indicates that the Supreme Court of Justice *En Banc*, through the majority of eight votes, may expel a rule from the juridical system following the process of General Unconstitutionality Statement. The process consists of the following: when either the Chambers or the Full-Court declare the unconstitutionality of a rule in an indirect *amparo* in review for the second time, the Supreme Court of Justice must inform the issuing authority of the existence of an unconstitutionality problem in its rule. Afterwards, if either the Chambers or the Supreme Court *En Banc* set jurisprudence by reiteration, the Court will inform again the issuing authority so that within a term of ninety days it resolves the unconstitutionality problem. If it doesn't overcome the unconstitutionality problem, then the Supreme Court of Justice *En Banc* will expel the rule if voted through a majority of eight votes in that sense. If the rule is for criminal matters, the effects may be retroactive. It must be stressed that this procedure is not applicable to general rules for tax matters.

**Constitutional controversies:** will be admitted against actions or general rules that affect the realms of institutional competence or guarantees of the Federal Executive Branch, the House of Representatives or Senate of Congress, the Powers of the States and of the municipalities.

Effects of constitutional controversies very depending on whether an action, omission or a general rule is being contested. If an action is challenged, effects of the constitutional controversy consist in declaring invalidation of the challenged action and things are reverted to the condition they were before it was conducted. If an omission is challenged, the effects consist of declaring invalidity of the omission and order the responsible authority to fulfill its obligations. Lastly, if a rule is challenged, depending on the type of rule and whether the majority of eight votes is reached, invalidity might be declared with the general effects of it or only with effects for the specific case.

**Unconstitutionality actions:** may only be filed by the legitimate authorities like the Executive, the Attorney General of the Republic, the National Human Rights Commission, parliamentary minorities, among other. Through this constitutional means of control, legitimate authorities denounce the possible contradiction between the Constitution and any rule or provision of general character of lower hierarchy. This means of constitutionality control allows the Supreme Court of Justice to make an analysis in abstract of the constitutionality of the challenged general rules.

Whenever the justices or ministers of the court resolve by at least eight votes the unconstitutionality of a general rule, it will be expelled from the juridical system. However, if only a simple unqualified majority of eight votes is reached for the invalidation, the unconstitutionality action will be dismissed. Lastly, a simple majority will be sufficient in favor of the validity of a rule for a statement of validity to be issued.

Another one of the outstanding jurisdictional powers of the National Supreme Court of Justice is the Recourse of Review in matters of National Security, which may only be filed by the Legal Counsel

of the Federal Government against resolutions from the National Transparency, Access to Information and Protection of Personal Data Institute. It is admitted when this Institute forces the authorities to surrender information that might jeopardize National Security. When resolving these recourses, the Supreme Court of Justice may confirm or revoke the resolutions of the Institute. If it confirms the resolution, the obligated subject must surrender the information to the requestor. If the resolution is revoked, the Supreme Court of Justice may determine the way in which the Institute must act to safeguard the National Security.

### e. Jurisprudence

Is a set of principles, reasonings and criteria that judges establish in their resolutions when interpreting juridical rules. It is considered one of the formal sources of law, that is, one of the processes or means whereby juridical rules are created.<sup>6</sup> Jurisprudence may be created by the National Supreme Court of Justice *En Banc* or in Chambers, by the Full Circuit Courts and the Full Collegiate Circuit Courts.

Jurisprudence can be created through the reiteration of criteria, through thesis contradiction and through substitution. Jurisprudence by reiteration of criteria arises when there are five sentences in the same sense which are not interrupted by another one to the contrary, resolved in different sessions and by a qualified majority according to the body issuing the same. It is important to stress that each one of these criteria is considered as an Isolated Thesis, that is, a criterion of interpretation. When one of these criteria is reiterated in the same sense, for five times, it becomes a Jurisprudence Thesis, the same that assumes the character of mandatory.

Jurisprudence by contradiction of thesis arises when there are divergent criteria between the Chambers of the National Supreme Court of Justice, among the Full Circuit Courts or among the Circuit Courts on the issues of their respective competence. These contradictions are resolved by the Full-Court, the Cham-

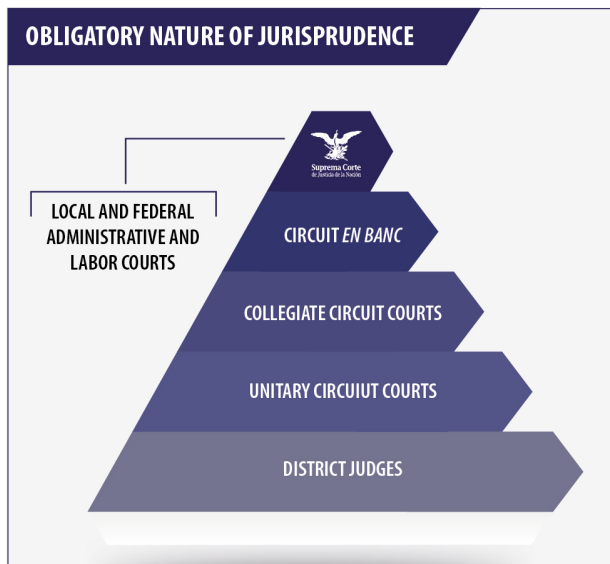
<sup>6</sup> <https://www.scjn.gob.mx/conoce-la-corte/que-hace-la-scjn>



bers of the National Supreme Court of Justice<sup>7</sup> and the Full Circuit Courts<sup>8</sup>.

Jurisprudence by substitution arises in those cases when jurisprudence by reiteration or contradiction established by the Court *En Banc* or the Chambers of the National Supreme Court of Justice must be substituted. For that purpose, it is required to have a majority of at least eight votes *En Banc* and four in the corresponding Chamber.

The obligatory nature of it depends on the body that originated it. As can be seen in the following diagram, jurisprudence created by the Full-Court or the Chambers of the National Supreme Court of Justice is mandatory for the Full Circuit Courts, the Collegiate Courts and the Unitary Circuit Courts, the District Courts, the administrative and labor courts at local and federal levels.



<sup>7</sup> The Court *En Banc* resolves the tesis contradictions between the Chambers of the National Supreme Court of Justice but can also hear, the same as the Chambers of the National Supreme Court of Justice, of tesis contradiction among the Full Circuit and Circuit Collegiate Courts of different specialty and from different circuits.

<sup>8</sup> They resolve the tesis contradictions held among the Circuit Collegiate Courts in the own Circuit.-

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