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Intellectual Property in Mexico, Which Procedural Law Should Be Applied?



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The transition to the National Code of Civil and Family Procedures (CNPCyF) has created a complex landscape of statutory interpretation within the Mexican legal system. While certain areas of law are moving toward immediate application, others face explicit barriers within their respective legal frameworks that instead suggest a gradual implementation. A detailed analysis of the Federal Law for the Protection of Industrial Property (LFPPI), together with recent precedents issued by the Federal Judiciary in amparo matters, reveals the dilemma between immediate and gradual application, depending on the subject matter and the specific provisions of the legal framework governing it.

I. THE SUPPLEMENTARY APPLICATION FRAMEWORK UNDER THE FEDERAL LAW FOR THE PROTECTION OF INDUSTRIAL PROPERTY (LFPPI):

The original framework of the 2020 Federal Law for the Protection of Industrial Property (LFPPI) provided, in Article 3, states that both the Federal Administrative Procedure Law and the Federal Code of Civil Procedure were applicable on a supplementary basis. Reference was to be made first to the former and, in the absence of an express provision therein, to the latter. However, following the publication of the National Code of Civil and Family Procedures (CNPCyF) in the Official Gazette of the Federation on June 7, 2023, and in an effort to harmonize the legal framework, Articles 3 and 400 of the LFPPI were amended on November 14, 2025, to replace the Federal Code of Civil Procedure (CFPC) with the CNPCyF as the second body of law applicable on a supplementary basis to the LFPPI in procedural matters. At the same time, and in accordance with the transitional provisions of the CNPCyF itself, the amendment to the LFPPI incorporated a Second Transitory Article providing that the application of the CNPCyF would be subject to the declarations of effectiveness (declaratorias de vigencia) to be issued by the Federal Congress for that purpose, establishing April 1, 2027, as the final deadline. In other words, pursuant to the Second Transitory Article of the amendment to the LFPPI published on November 14, 2025, the supplementary application of the new CNPCyF is contingent upon the declaration of gradual implementation to be issued by Congress. Should such declaration not be issued by April 1, 2027, the CNPCyF will automatically enter into force on that date.

II. THE DILEMMA BETWEEN IMMEDIATE AND GRADUAL IMPLEMENTATION

The gradual application of the CNPCyF had been generally accepted until the issuance of binding precedent PR.A.C.CS. J/8 K (12a.), digital registry No. 2031368, entitled “SUPPLEMENTARY APPLICATION IN AMPARO PROCEEDINGS. PURSUANT TO ARTICLE 2 OF THE AMPARO LAW, THE NATIONAL CODE OF CIVIL AND FAMILY PROCEDURES APPLIES IMMEDIATELY UPON ITS ENTRY INTO FORCE AND IS NOT SUBJECT TO THE DECLARATION OF EFFECTIVENESS PROVIDED FOR IN ITS TRANSITIONAL PROVISIONS,” issued on April 17 of this year. In that decision, the Regional Plenary Court for Administrative and Civil Matters of the South-Central Region held that, for purposes of amparo proceedings, the CNPCyF is mandatory and immediately applicable, based on the following considerations:

- **Plain Meaning of the Statute:** Since the Amparo Law does not contain an express provision regarding the effectiveness of the CNPCyF, the applicable text is the current version of the Amparo Law, which expressly identifies the CNPCyF as the body of law applicable on a supplementary basis.
- **General Law vs. Special Law:** The Amparo Law, as a special statute, prevails over general legislation, including the CNPCyF itself.
- **Legislative Intent:** It is presumed that Congress deliberately omitted any condition delaying the effectiveness of the CNPCyF, thereby accepting its automatic and immediate application.
- **Legal Certainty:** This interpretation promotes legal certainty by adhering to the plain language of the statute.

III. THE LEGAL FRAMEWORK UNDER THE FEDERAL LAW FOR THE PROTECTION OF INDUSTRIAL PROPERTY

Unlike the Amparo Law, we consider that the LFPPI contains express statutory obstacles that preclude an analogous application of the reasoning set forth in precedent PR.A.C.CS. J/8 K (12a.) issued by the Regional Plenary Court for Administrative and Civil Matters of the South-Central Region. The aforementioned because, unlike the Amparo Law, the November 14, 2025, amendment to the LFPPI contains an express transitional regime that conditions the application of the CNPCyF upon the issuance of the corresponding declaration by Congress.

The wording of the Second Transitory Article of the LFPPI, which provides for the gradual application of the CNPCyF in accordance with the transitory provisions of that Code, undermines the considerations relied upon by the Regional Plenary Court for Administrative and Civil Matters of the South-Central Region in relation to the Amparo Law. In the case of the LFPPI, those considerations are overcome by the following reasons:

- **Plain Meaning of the Statute:** An express provision regarding the effectiveness of the CNPCyF is included in the LFPPI.
- **General Law vs. Special Law:** The LFPPI, as a special statute in its own right, prevails over general legislation.
- **Legislative Intent:** It must be presumed that Congress deliberately conditioned the effectiveness of the CNPCyF, thereby embracing a gradual implementation process.
- **Legal Certainty:** This interpretation promotes legal certainty by adhering to the plain language of the Second Transitory Article.

The foregoing applies equally to the Federal Law of Administrative Litigation Procedure, as the amendment enacted on November 14, 2025 expressly incorporated the same transitory provision, making the effectiveness of the CNPCyF contingent upon the issuance of the corresponding declaration by Congress or, failing that, upon April 1, 2027, the statutory deadline for its entry into force.

Furthermore, one should recall that, during the implementation of the National Code of Criminal Procedure (CNPP) between 2014 and 2016, the Supreme Court of Justice of the Nation (SCJN) held that the deadlines and declarations established by the legislature were mandatory and that legal operators were not authorized to accelerate the effectiveness of a procedural statute solely on the ground that it was more favorable or more advanced than the regime it replaced.

Nevertheless, given the apparent stagnation of the reform process, the possibility cannot be ruled out that litigants may seek to extend by analogy the reasoning adopted with respect to the Amparo Law to proceedings governed by the LFPPI. Should such arguments be advanced, two potential lines of reasoning can be anticipated:

- 1. Constitutional Review Route:** Challenging the constitutionality of the LFPPI's transitory provisions through amparo proceedings, arguing that delaying access to the CNPCyF perpetuates the application of an obsolete procedural code (the CFPC), thereby violating the principle of the progressive realization of human rights.
- 2. Procedural Application Route:** Arguing that those procedural provisions of the CNPCyF that afford greater due process guarantees and simplify evidentiary proceedings govern future procedural acts in ongoing cases and, therefore, that their immediate application does not impair vested substantive rights. This argument would rest on the premise that the Supreme Court of Justice of the Nation (SCJN) has already held, specifically in jurisprudential thesis VI.2o. J/140, digital registry No. 195906, entitled "RETROACTIVITY OF PROCEDURAL LAWS. AS A GENERAL RULE, IT DOES NOT EXIST," that, as a general matter, procedural rules do not operate retroactively.

The significance of this debate becomes apparent when examining precedents such as Amparo en Revisión No. 9/2026, decided by the Supreme Court of Justice of the Nation on May 26, 2026. This case concerned the constitutionality of Article 333 of the LFPPI, particularly the evidentiary restrictions it imposes in administrative proceedings involving industrial property rights with respect to testimonial and confessional evidence.

Although the case was decided on its own constitutional merits, it clearly illustrates the gap between the two procedural regimes. While the CFPC maintains a restrictive evidentiary framework, the CNPCyF introduces a significantly broader range of evidentiary mechanisms.

As an aside, it is somewhat ironic that testimonial and confessional evidence in industrial property proceedings continue to be treated as written evidence, since requiring their submission through written interrogatories and lists of questions serves only to delay the resolution of disputes. Such an approach appears inconsistent with the very objectives underlying the CNPCyF.

IV. THE EVOLUTION OF EVIDENTIARY LAW UNDER THE CNPCyF IN INDUSTRIAL PROPERTY LITIGATION

Once the supplementary application of the CNPCyF finally takes effect, if not sooner, strategic litigation in industrial property matters will undergo a profound transformation driven by the following developments:

- **Confessional Evidence vs. Party Testimony (Articles 284–290):** Under the former CFPC, party-opponent evidence relied on the traditional written and highly structured pliego de posiciones. The CNPCyF eliminates this rigid mechanism and replaces it with Party Testimony (Declaración de Parte), which is based on open-ended and dynamic questioning conducted directly by attorneys or the judge.
- **Shorter Deadlines for Obtaining Evidence Located Outside the Place of Trial (Article 281):** The applicable time limits are substantially reduced, from two months to one month when the evidence is located elsewhere within Mexico; from four months to two months for evidence located in another North American country; and from five months to three months for evidence located in Central America or the Caribbean. The six-month period for Europe and South America and the seven-month period for all other regions remain unchanged.
- **Expert Evidence (Articles 300–304):** Under the CFPC, experts submitted written reports. Under the CNPCyF, experts are required to appear at trial to support and defend their opinions orally and to submit to direct examination and technical confrontation with opposing experts. If an expert retained by a party fails to appear at the mandatory hearing or is unable to defend the methodology underlying the expert opinion when questioned by the court, the expert evidence may be excluded, potentially undermining the party's case.
- **Reduction of the Time Period for Offering Evidence (Article 176):** The former CFPC distinguished between the general period for filing manifestations and the period for offering evidence, establishing three days for the former and ten days for the latter. The CNPCyF eliminates this distinction and provides a single three-day period for both purposes.
- **Evaluation of Evidence (Article 171):** Although the CFPC combines fixed evidentiary rules with principles of free evaluation, the CNPCyF expressly requires evidence to be assessed freely, logically, and in accordance with experience (sana crítica). As a result, adjudicators must provide a thorough and reasoned explanation of the weight assigned to each item of evidence.
- **Publication of Edicts (Article 209):** The former CFPC required publication in the Official Gazette and in a newspaper of nationwide circulation on three occasions at seven-day intervals, resulting in a minimum overall period of approximately thirty days. By contrast, the CNPCyF requires such publications to be completed within a period of no less than fifteen and no more than thirty days, leaving the precise timeframe to the discretion of the authority. This change affects only proceedings governed by the Federal Law of Administrative Litigation Procedure, as the LFPPi contains an express provision governing this issue.

- **Expanded Scope of Newly Discovered Evidence (Article 246):** The CNPCyF broadens the category of newly discovered evidence to include: evidence that could not have been obtained earlier for reasons not attributable to the offering party; evidence offered in response to claims asserted in the principal action or in a counterclaim, provided that the party timely identified such evidence in accordance with the National Code; and evidence offered to challenge or rebut evidence submitted by the opposing party.
- **Digital and Functional Equivalence (Articles 308–313):** Although this issue had largely been addressed through the regulations implementing the LFPPI, the CNPCyF expressly recognizes that electronic documents are entitled to the same evidentiary value as physical documents. It also grants full legal recognition to advanced electronic signatures and digital court records, thereby facilitating the use of emails, electronic communications, and platform-generated records as documentary evidence.
- **Procedural Streamlining of Evidentiary Challenges (Articles 325–329):** Deadlines for challenging documentary evidence are moved forward to the stage of the response or the corresponding legal relief. In addition, allegations of documentary forgery must now specify the grounds for the challenge and be supported by comparison documents, effectively eliminating generic or unsupported objections.
- **Adoption of Disruptive Technologies (Arts. 308–331 and 348–350):** The CNPCyF expressly recognizes the admissibility of digital records, optical media, and decentralized databases, including blockchain-based systems. The evidentiary assessment of such materials will focus on the reliability of their chain of custody, with public blockchain networks likely to enjoy enhanced evidentiary weight due to their transparency and verifiability.

V. CONCLUSIONS:

We cannot rule out the possibility that the recent position adopted by the Regional Plenary Court for Administrative and Civil Matters of the South-Central Region with respect to the Amparo Law may encourage courts to apply the same reasoning by analogy to the LFPPI. It will therefore be our responsibility, from our position as guardians of our clients' industrial property rights, to ensure that adjudicators recognize that the plain language of the Second Transitory Article of the LFPPI prevails over any interpretation that would undermine the gradual implementation of the CNPCyF. Only by doing so can we safeguard legal certainty for our clients and ensure respect for due process in industrial property matters.



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