[…]

The foregoing is affirmed since the complainants limit themselves to making dogmatic expositions that do not have any evidence of a true violation of any constitutional precept.

This is the case, since when the unconstitutionality of normative portions is claimed in a direct amparo, it is necessary that the legal rule indicated as being challenged, must be challenged in express confrontation with a specific provision of the Political Constitution of the United Mexican States, through a sufficient concept of violation.

Thus, this requirement is based on the following essential elements:

a) Identification of the norm of the Magna Carta;

b) Invocation of the secondary provision that is designated as being challenged; and

c) Concepts of violation in which it is attempted to demonstrate, legally, that the challenged law is contrary to the normative hypothesis of the constitutional norm, as to the framework of its content and scope.

From the fulfillment of these essential requirements, the constitutional problem will arise, as well as the appropriateness of the respective declaration regarding the secondary law. If the requirements that have been indicated are not met, the indication of the challenged law and the concept of violation that does not indicate the framework and the interpretation of a constitutional provision that may transgress it, are reasons of insufficiency, which dismiss the actualization of a true problem of the constitutionality of the law.

In this order, the complaining party, within the procedural distribution of the burden of proof, it is incumbent to demonstrate the unconstitutionality of the law or of an act of authority, with the exception of cases involving laws that have been declared unconstitutional in which there is mandatory jurisprudence sustained by the Plenary of the Supreme Court of the Nation, or in the presence of acts that are unconstitutional per se.

Thus, the situation should be considered as lacking of a true concept of violation, the simple enunciation as constitutional provisions not applied, since it cannot be considered as a basis for the efficient challenge to the constitutionality of secondary laws, since there is no confrontation between these and a specific right protected by the constitutional norm in its corresponding text and scope.

Thus, from the analysis of the concepts of violation that the petitioners specified as first and second, it is not evident that they carry out an effective intellectual and argumentative exercise to evidence that the articles of the Thirteenth Transitory Thirteenth of the Petroleos Mexicanos Law; 47 of the Regulation of Petroleos Mexicanos, and 42, section XXVIII, of the Organic Statutes of Pemex Exploration and Production; are contrary to any constitutional precept.

29-30

III. Favorable interpretation of the North American Free Trade Agreement.

In their ninth concept of violation, the petitioners of constitutional protection state that with the issuance of the challenged judgment, Articles 1 of the Political Constitution of the United States of Mexico, Articles 1 and 2 of the Constitution of the United Mexican States; 8, 10 and 17 of the Universal Declaration of Human Rights; 8 and 17 of the American Convention on Human

Rights, and 50 of the Federal Law of Contentious Administrative Procedure, were violated to their detriment.

The aforementioned, since there was not a complaint interpretation or the pro homine principle was applied in his favor, with respect to paragraphs 1101, 1104 and 1105 of the North American Free Trade Agreement.

Violation concept that is inoperative.

The foregoing is affirmed, since contrary to what the complainants state, and as evidenced in the previous section, the intellectual and argumentative exercise for the application of the pro homine or pro persona principle is given only in the application of human rights that are in the universe of international law.

That is to say, in accordance with the provisions of Article 1 of the Political Constitution of the United Mexican States, as amended by the decree of constitutional reform in the area of fundamental rights, published in the Diario Oficial de la Federación on June tenth, two thousand and eleven, the Mexican legal system, at its highest level, must be understood to be composed of two core sources:

a) The fundamental rights recognized in the Political Constitution of the United Mexican States; and,

b) All those human rights established in international treaties to which the Mexican State is a party.

In this way, in order to verify if the ordinals 1101, 1104 and 1105 of the North American Free Trade Agreement, must be conceived as human rights in order to be able to apply them through the hermeneutic tool called pro homine principle, it is necessary to bring them into context, in this way, are of the following tenor:

*“**Article 1101**: Scope and Coverage*

1. This Chapter applies to measures adopted or maintained by a Party relating to:

(a) investors of another Party;

(b) investments of investors of another Party in the territory of the Party; and

(c) with respect to Articles 1106 and 1114, all investments in the territory of the Party.

2. A Party has the right to perform exclusively the economic activities set out in Annex III and to refuse to permit the establishment of investment in such activities.

3. This Chapter does not apply to measures adopted or maintained by a Party to the extent that they are covered by Chapter Fourteen (Financial Services).

4. Nothing in this Chapter shall be construed to prevent a Party from providing a service or performing a function such as law enforcement, correctional services, income security or insurance, social security or insurance, social welfare, public education, public training, health, and child care, in a manner that is not inconsistent with this Chapter.”

***“Article 1104**: Standard of Treatment*

Each Party shall accord to investors of another Party and to investments of investors of another Party the better of the treatment required by Articles 1102 and 1103.”

***“Article 1105**: Minimum Standard of Treatment*

1. Each Party shall accord to investments of investors of another Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

2. Without prejudice to paragraph 1 and notwithstanding Article 1108(7)(b), each Party shall accord to investors of another Party, and to investments of investors of another Party, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

3. Paragraph 2 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 1102 but for Article 1108(7)(b).”

The systematic interpretation of these normative portions, reveals that the text in which they are included is the North American Free Trade Agreement, which although it is an international instrument signed and ratified by the Mexican State, it provides for rights and prerogatives of a commercial nature.

Also, these three legal provisions also establish the so-called trade rules, which have not been contemplated or not been considered or prioritized at the level of human rights.

Consequently, the request made by the Complainants is inoperative, since articles 1101, 1104 and 1105 of the North American Free Trade Agreement, do not contemplate human rights with respect to which the interpretative exercise referred to in Article 1 of the Magna Carta, can be applied.

44-46

VI. Illegality of the administrative termination of the contract.

In their tenth concept of violation, the petitioners state that the respondent authority was indeed obligated to fulfill the minimum amount of the contract, as can be seen in the fifth clause of the contract 421004821.

On the other hand, in the eleventh concept of violation, **the claimants argue that there was a breach by Pemex Exploration and Production since it did not provide work orders for more than eighteen months.**

Violation concepts that are inoperative.

This is so, since with their presentation, the complainants do not succeed in the considerations on which the challenged judgment was based, and which mainly the following:

- ✓ In the seventh recital of the judgment the First Section of the Superior Chamber of the Federal Court of Administrative Justice analyzed the second, fourth and ninth the second, fourth, and ninth arguments, in which the claimants stated that the rescission of the contract was unlawful.
- ✓ The concepts of impugnation turned out to be unfounded, since the causes that led to the rescission in the termination in question, were legal since the termination of the referred contract was due to the fact that the claimants did not comply or abide the work order 28/2016.
- ✓ The foregoing, since the claimants for annulment were obligated, pursuant to the provisions of contract 421004821, to perform the work orders to be carried out by Pemex Exploration and Production.

Thus, the First Section of the Superior Chamber of the Federal Court of Administrative Justice, evidenced that, as argued by the defendant authority Pemex Exploration and Production, the claimants did not comply with the work order 28/2016, reason why it was legal to determine the rescission of the administrative contract.

[…]