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Meet the Court

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What does the Supreme Court of Justice of the Nation do?

As the Constitutional Court of Mexico, it dispenses justice through mechanisms that ensure that laws and acts of authority adhere to the Constitution.

These mechanisms are processes called **means of constitutional control**.

As guardian of the Constitution, the Court:

- Maintains the constitutional order imposed on the governing bodies.
- Enforces the rights and freedoms of individuals.

The arguments and reasoning used by the Court to resolve conflicts are useful to other courts and tribunals in the country, and their application is often mandatory. They constitute the **jurisprudential activity** of the Supreme Court.

What are the means of constitutional control?

They are the instruments through which one seeks to maintain or defend order.

established by the Political Constitution of the United Mexican States.

The Federal Constitution provides for various means of control, however, those that the SCJN must address are the following:

- The amparo trial. •
- Constitutional controversies.
- Actions of unconstitutionality.
- Determinations of constitutionality on the subject of popular consultations.

What is the amparo trial?

It is a jurisdictional means of protecting human rights established in the Political Constitution of the United Mexican States and in the international treaties to which Mexico is a party.

This trial is applicable in any of the following cases:

- Against acts of authorities that violate human rights. • Against laws or acts of federal authorities that violate or restrict the sovereignty of the States or the sphere of jurisdiction of the Federal District. • Against laws or acts of the States or the Federal District that invade the sphere of federal authority.



In the latter two cases, the disruption of that sovereignty or the invasion of powers must result in violations of the human rights of one or more individuals.

The protection can be promoted by any person who is in Mexico, including:

- Minors, even without the intervention of their legitimate representatives, when

if they are absent or unable to attend the trial, the Judge shall appoint special representatives for them.

- Private legal entities, which may request protection through their legitimate representatives.
- Official legal entities, which may appear in a request for protection, for through the officials or representatives designated by the laws, when the act or law being challenged affects the property interests of the latter.
- Foreigners who, by mere transit or by having residence in our country, are
They are subject to Mexican laws and their human rights are affected by an act of national authority, regardless of whether some of these rights are partially limited.

Depending on the nature of the violation that gave rise to it, the protection will have specific names, procedures and different resolving bodies:

The indirect amparo trial is processed before the District Courts and proceeds against:

- Laws, international treaties, regulations, decrees, or agreements of general observance, which cause harm to the complainant—that is, which affect or violate his or her human rights.
- Acts by authorities other than judicial, labor or administrative courts — for example, a State Secretariat, a governor or an agent of the Public Ministry — that result in violations of human rights.
- Acts of judicial, labor or administrative courts executed outside trial or after its conclusion.
- Acts pronounced in a trial that, if executed, cannot be repaired.
- Acts executed in or out of court, when they affect persons who have not intervened in it.
- Laws or acts of the federal authority that affect the sovereignty of the States or the sphere of jurisdiction of the Federal District; or by laws or acts of the latter that affect the federal sphere of jurisdiction.
- Resolutions of the Public Prosecutor's Office on the non-exercise or withdrawal of the criminal action, that is, when it is determined not to proceed criminally against someone, or against acts related to the reparation of damages or civil liability, arising from the commission of a crime.

In the case of acts carried out by Collegiate Courts of Appeal that do not constitute definitive sentences, the protection must be processed before another Court.

Court of Appeal.

The direct amparo trial is applicable against final judgments, awards - determinations in labor matters - and other resolutions that put an end to the trial, issued by judicial, administrative or labor courts, that affect the defense of the complainant, and against which there is no other means of defense by which they can be modified or left without effect.

On June 6, 2011, a decree was published in the *Official Gazette of the Federation* that amended, added to, and repealed various provisions of Articles 94, 103, 104, and 107 of the *Political Constitution of the United Mexican States*, in order to modernize the amparo trial and, in this way, transform it into a more effective means of protecting human rights —previously called individual guarantees—established in the *Federal Constitution* itself and, additionally, in the international treaties on human rights to which Mexico is a party. The main aspects of said reform are highlighted below:

1. **The protective scope of the amparo trial is expanded.** It is now possible to promote the amparo trial not only against violations of human rights contemplated in the Federal Constitution, but also those set forth in international treaties to which Mexico is a party.
2. **The figure of collective protection is introduced.** It is possible to initiate a protection trial when there is a legitimate collective interest.
3. **The right to file for amparo is expanded. Previously,** it was only possible for a person to file for amparo when he or she was the holder of a right that allowed him or her to use and dispose of something freely and to the exclusion of others, that is, when he or she had a "legal interest", as occurs, for example, with respect to private property . However, the reform replaced the requirement of having a legal interest with that of a "legitimate interest", so that, in addition to cases such as of the one mentioned, it will also be possible for a person to initiate an amparo trial to defend rights whose violation does not affect him or her personally and directly, such as, for example, the survival of a forest or a public park, since its elimination could affect the right to enjoy an environment suitable for development and well-being. This does not apply to amparos filed against judicial resolutions, for which the requirement of having suffered a personal and direct affectation of rights will continue to apply.
4. **The figure of the general declaration of unconstitutionality of a norm is established.** As before, the sentences that are issued in the amparo trials

They will only deal with the complainants - persons - who request it, limiting themselves to supporting and protecting them, if this is appropriate. However, by virtue of the reform, when in amparo trials processed before District Judges - indirect amparo - the unconstitutionality of a norm is repeatedly resolved, except for those of tax matters, there will be the possibility, under certain requirements, that the SCJN makes a general declaration of unconstitutionality, with which said norm may no longer be applied to any person in this country.

5. **The figure of adhesive protection is introduced.** In the protections that are promoted against sentences or awards and in general, against all those judicial resolutions that put a trial in motion, the person who has obtained a favorable sentence within said trial and, therefore, who has an interest in that sentence subsisting or, in other words, that his counterparty in the trial does not benefit from the protection of an protection sentence, may adhesively join the protection that his opponent has initiated, in order to seek to safeguard his rights.

- . **Circuit Plenaries are created.** Within the modifications to the structure of the The Circuit Plenums are created by the Judicial Branch of the Federation, which will be made up of Magistrates from the Circuit Collegiate Courts (which belong to the Federal Judicial Branch). These Plenums will be empowered to resolve the contradictions of theses or criteria upheld in their sentences by the Collegiate Courts, which will allow a more agile resolution of this type of dispute. matters.

7. **Establishes a new scheme for the application of sanctions when a authority does not comply with the ruling of an amparo trial.**

- . **It also establishes the general guidelines to be followed when the authority y responsible party disobeys a suspension order, or who, in the face of such a measure, admits, through bad faith or negligence, a guarantee or counter-guarantee that is illusory or insufficient.**

9. **The expiration of the instance figure is eliminated.** The Judicial Branch of the Federation is prevented from failing to resolve an amparo and, where appropriate, from granting the protection of the Justice of the Union, due to the inactivity of the complainant - the person who initiated the lawsuit - within an amparo lawsuit, in civil or administrative matters.

10. **The obligation is established not to archive any amparo proceedings without having complied with the ruling granting constitutional protection.** The Judicial Branch of the Federation will not archive the corresponding file until the amparo ruling granted to the person who initiated it has been complied with.

11. **The Executive and Legislative Branches are granted the exceptional power to request the Federal Judicial Branch to resolve priority actions of**

unconstitutionality, constitutional controversies and amparos, when their urgency is justified, taking into account the social interest or public order.

12. The abuse of the suspension of the challenged act is limited. The suspension of the challenged act is a measure that aims to prevent the right of the complainant - who initiates the trial - from continuing to be affected while the amparo trial is being resolved and, consequently, the amparo could become void of substance, as it would not be possible to restore the person to the use and enjoyment of the violated right.

However, to prevent abuses being committed through this figure, which could have detrimental repercussions on society, in order for the suspension to be granted, the court of protection must now, when the nature of the act so warrants, carry out a balanced analysis of the appearance of good law and social interest.

See Official Gazette of the Federation of June 6, 2011 (<https://www.scjn.gob.mx/Conoce-la-corte/dof-06jun11>)

The intervention of the SCJN in amparo trials

- **Direct and significant amparos.** In certain cases, the SCJN may resolve direct amparo trials whose knowledge corresponds to the Circuit Collegiate Courts, provided that the significance of the legal problems raised in such matters requires a pronouncement on its part. The SCJN, ex officio or at the reasoned request of the corresponding Circuit Collegiate Court, or of the Attorney General of the Republic, may hear this type of case.

protections.

- **Appeals for review, complaint and claim.** These are means of challenge that proceed against procedural acts and that can be promoted by the party that considers itself aggrieved, in order for the referred acts to be reviewed and, if appropriate, revoked, modified or annulled. The SCJN can hear the three types of appeals, in the following cases: • **Appeals for review in indirect amparos, in special cases.** Against the sentences that the District Judges or the Collegiate Courts of Appeal pronounce in amparo, the appeal for review is admissible. The SCJN will hear this appeal when federal or local laws, international treaties or regulations have been challenged, and the problem of constitutionality remains in the appeal, or when it deals with laws or acts of the federal authorities that violate or

- **Appeals for review in direct amparo proceedings.** The SCJN may hear appeals for review against judgments issued in direct amparo proceedings by Circuit

Collegiate Courts, when the unconstitutionality of a federal, local, or Mexico City law or an international treaty has been challenged, or when the concepts of violation have raised that said norms directly violate the Constitution, and therefore the problem of constitutionality remains.

- **Complaints.** The SCJN is responsible for handling complaints filed against resolutions issued by District Courts or the courts that heard the trial—in the case of concurrent jurisdiction—or Circuit Collegiate Courts, regarding complaints filed before them, provided that the SCJN has jurisdiction over the reviews in the guarantee trials in which the complaints are asserted. This appeal is also known as "complaint of the complaint" because, as can be seen, it is a complaint that is filed against the resolution issued in a previous complaint.
- **Claims.** It is the responsibility of the Full Court of the SCJN to hear complaints.

appeals filed against the determinations or agreements issued by the Presidency of the SCJN, issued during the processing of jurisdictional matters under the jurisdiction of the Plenary of the SCJN itself.

- **Cases of non-compliance with judgments or repetition of contested**

acts. If the

If the responsible authority fails to comply with the amparo ruling, but such noncompliance is justified, the SCJN will grant a reasonable period for compliance. If the noncompliance is inexcusable, the holder of such authority will be immediately removed from his or her position and brought before a District Judge. If, after the amparo ruling is granted, the challenged act is repeated, the SCJN will remove the holder of the responsible authority from his or her position and will notify the Federal Public Prosecutor's Office, unless there was no fraudulent action and the repeated act is rendered void. The substitute compliance of a ruling may be requested by the complainant or decreed ex officio by the SCJN, when its execution seriously affects society in greater proportion than the economic benefits that the complainant could obtain or when it is impossible or extremely burdensome to restore the situation to the way it was before the violation.

- **Cases of violations of the suspension of the claimed act or admission of**

Illusory or insufficient funds. The responsible authority that does not suspend the act

claimed or when it admits through bad faith or negligence an amount that is illusory or insufficient, will be penalized.

What is a Constitutional Controversy?

Constitutional controversies are processes through which conflicts arising between two of the federal powers (Legislative and Executive), the powers of the states (Legislative, Executive and Judicial), the governing bodies of Mexico City (Legislative, Executive and Judicial), or between the levels of government (federal, state, municipal), due to invasion of powers or any type of violation of the Federal Constitution by the aforementioned bodies, are resolved. It is the exclusive responsibility of the SCJN to resolve these processes.

When a power or authority carries out an act or issues a provision of a general nature - such as a law, a regulation or a decree - and thereby exercises functions that correspond to another power or level of government, it commits a violation of the system of distribution of powers provided for by the Political Constitution of the United Mexican States, which can be challenged through a constitutional controversy.

Furthermore, through constitutional controversies, the SCJN can carry out the examination of all types of violations of the Federal Constitution, by virtue of the fact that the various means of control of constitutional regularity referred to the federal, state and municipal legal orders, among which are constitutional controversies, have the primary purpose of strengthening federalism and guaranteeing the supremacy of the Constitution, by virtue of which, the actions of the authorities must conform to what is established therein.

It should be noted that the Judicial Branch of the Federation, as the body in charge of resolving these conflicts, that is, the one that has the role of judge, is not authorized to initiate them as a party. Likewise, it is not possible to initiate constitutional controversies against the Judicial Branch of the Federation or the bodies that comprise it, since when resolving the matters submitted to its jurisdiction, they do not exercise ordinary powers of a government sphere, but extraordinary powers of constitutional control.

If in a constitutional dispute the judge concludes that an authority issued a provision of a general nature - for example a law - by exercising powers that are the responsibility of another branch or level of government, the contested provision could be declared invalid and without effect with respect to all persons. For this to happen

It is necessary that the controversy has been raised in one of the following cases:

- Against general provisions of the States or Municipalities challenged by the Federation. • Against general provisions of the Municipalities challenged by the States. • Due to conflicts between the Executive Branch and the Congress of the Union, any of its Chambers or the Permanent Commission.
- Due to conflicts between two Powers of the same State or between two governing bodies of the Federal District, regarding the constitutionality of their acts or general provisions.

If any of these conditions are met, the contested provision would lose its general effects - that is, it could not be applied to any person - but only in the event that the resolution issued by the SCJN Plenary is approved by the vote of eight or more of its ministers. In those disputes regarding general rules in which the aforementioned vote is not reached, the SCJN Plenary will declare said disputes dismissed.

In all other cases, the resolutions will have effects only with respect to the parties to the dispute.

What is an Action of Unconstitutionality?

It is a means of controlling constitutionality that is processed exclusively before the SCJN, through which the possible contradiction between the Constitution and some general rule or provision of lower hierarchy is reported - law, international treaty, regulation or decree -, with the aim of preserving maintaining the supremacy of the Constitution and nullifying the rules declared unconstitutional.

The promotion of unconstitutionality actions

They can be promoted by legislators, whether they are Deputies (federal or local) or Senators, who form a parliamentary minority that represents at least 33% of the total number of those who make up the body that issued the rule being challenged.

The Attorney General of the Republic, political parties registered with the National Electoral Institute or

locally registered parties, when it comes to electoral laws, as well as the National Human Rights Commission and the human rights protection bodies of the States and Mexico City.

Effects of the declaration of unconstitutionality of a norm or law

If the SCJN declares that a norm is contrary to the Supreme Law, it may not be re-enforced or applied to any person. This means that the sentences issued in unconstitutionality actions have general effects, provided that the resolution is approved by the vote of eight or more of the justices.

The main differences between constitutional controversies and unconstitutionality actions are:

CONTROVERSIES CONSTITUTIONAL	ACTIONS OF UNCONSTITUTIONALITY
Established to guarantee the principle of separation of powers, they raise an invasion of the spheres of competence established in the Federal Constitution, as well as any other type of violation of the aforementioned Fundamental Text.	A contradiction is alleged between the contested rule and the Fundamental Law itself

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CONTROVERSIES CONSTITUTIONAL

They can only be raised by the Federal Powers (Legislative and Executive), the Powers of the States (Legislative, Executive and Judicial), the Government Bodies of Mexico City (Legislative, Executive and Judicial), or by the orders of government (federal, state or municipal).

The plaintiff alleges the existence of a grievance against him.

It takes place through a process, which involves a claim, response to the claim, evidence, arguments and a sentence.

Any type of authority act and general regulations may be challenged, except those relating to electoral matters.

ACTIONS OF UNCONSTITUTIONALITY

They may be promoted by legislators, whether they are Deputies (federal or local) or Senators, who form a parliamentary minority that represents at least 33% of the total of those who make up the body that issued the law being challenged; the Attorney General of the Republic; political parties registered with the National Electoral Institute or parties registered locally, when it concerns electoral laws; the National Commission on Human Rights and the protection agencies for such rights of the States and of Mexico City.

The SCJN carries out an abstract analysis of the constitutionality of the rule.

It is resolved through a procedure in which there are no periods of evidence and arguments.

only applies against general rules, including those of an electoral nature.

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CONTROVERSIES CONSTITUTIONAL

The effects of the judgment issued, when it comes to general rules, consist of declaring the invalidity of these, provided that they are provisions of the states or municipalities challenged by the Federation, of the municipalities challenged by the states, or, in conflicts of attribution bodies and provided that at least, they have been approved by a majority of at least eight ministers. In the case of acts, the judgment only has effects for the parties.

ACTIONS OF UNCONSTITUTIONALITY

The ruling has general effects provided it has been approved by at least eight ministers.

What are the determinations of constitutionality on the subject of popular consultations?

Prior to holding a popular consultation, the SCJN must decide on the constitutionality of the subject matter of the consultation, in accordance with the terms of the Federal Law on Popular Consultation.



What is jurisprudence?

Jurisprudence is a set of reasoning and criteria that judges establish in their resolutions, when interpreting legal norms, that is, when unraveling or clarifying their meaning and scope or when defining cases not foreseen in them.

Jurisprudence is considered one of the so-called "formal sources of law."

Among these sources we also find legislation, custom, individual norms and general principles of law.

Who can issue jurisprudence in the Judicial Branch of the Federation?

In the Judicial Branch of the Federation, by provision of the law, the following are empowered to issue binding jurisprudence: the Plenary and the Chambers of the SCJN; the Superior Chamber and the Regional Chambers of the Electoral Tribunal of the Judicial Branch of the Federation; the Circuit Plenaries and the Circuit Collegiate Courts.

For whom is the SCJN's jurisprudence mandatory?

The jurisprudence issued by the SCJN is binding on the regional plenaries, the Circuit Collegiate Courts and the Appellate Collegiate Courts, as well as the District Courts, the military and judicial courts of the common order of the states and Mexico City, as well as the administrative and labor courts, both local and federal. The Chambers of the SCJN are only bound by the jurisprudence decreed by the Plenary.

How is the SCJN's jurisprudence integrated?

The SCJN's resolutions constitute jurisprudence, provided that the resolution is approved by at least eight ministers, if it is a case of jurisprudence of the Plenary, or by four, in the case of jurisprudence of the Chambers.

For the integration of this type of jurisprudence, the theses approved in the matters resolved in accordance with the provisions in force prior to the Tenth Period of the *Judicial Weekly of the Federation* are not taken into account and his Gazette.

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Case law is also formed when the Plenary, the Chambers of the SCJN carry out a procedure of unification of criteria (contradiction of theses), by deciding which one should prevail in the case where there are two or more contradictory theses (or criteria). In this case, the Plenary, the Chambers can even adopt a new thesis, which must prevail over the contending ones.

To resolve a conflicting theses, the approval of the majority of the ministers that make up the Plenary or the Chambers is sufficient.

The resolutions adopted by the Plenary of the SCJN, when resolving actions of unconstitutionality and constitutional controversies, also form jurisprudence,

provided they are approved by a minimum of eight ministers.

The *Judicial Weekly of the Federation and its Gazette* is the official body for disseminating the criteria of the Judicial Branch of the Federation, except for what refers to the Electoral Tribunal of this Branch.

The origin of the *Semanario Judicial de la Federación and its Official Gazette* is found in the presidential decree of December 8, 1870, issued by Benito Juárez García, through which the publication called *Semanario Judicial de la Federación* was created, which would contain all the final judgments issued by the Federal Courts since the restoration of legal order in 1867, and those issued thereafter; the requests of the Attorney General of the Nation, the Public Prosecutor of the SCJN, the Public Prosecutors of the Circuit Courts and District Courts; as well as the minutes of the agreement of the Plenary of the SCJN and the reports issued before it, when their publication had been agreed.

From February 1995, the *Semanario Judicial de la Federación* and the *Gaceta* of this same publication were merged, thus acquiring its current name.

The *Judicial Weekly of the Federation and its Official Gazette* are published monthly, in print and electronically. They include the judgments and theses whose enlargement and text were approved in the immediately preceding month, while they are published on the SCJN's *Internet* portal within the first five days of each month.

It is made up of various parts, sections and subsections, which contain the considerations of the decisions that make up jurisprudence by reiteration and the respective theses; those that resolve a contradiction of criteria; those that interrupt jurisprudence; those that replace it; those issued in constitutional controversies and in actions of unconstitutionality, as well as the respective theses; the corresponding votes; the regulations and the various agreements issued by the SCJN and by the Federal Judicial Council, and any other relevant decision or thesis, which, even without integrating jurisprudence, its publication is ordered by the Plenary or one of the Chambers of the SCJN or by a Circuit Collegiate Court.

The electronic version includes a section with votes related to decisions whose publication is not mandatory or has not been ordered; another section with the sentences issued by various courts, which are deemed relevant by the Plenary or by one of the Chambers of the SCJN, as well as a section related to other indexes.

Periods of the Judicial Weekly of the Federation Each Period is a

chronological stage in which the criteria published in the *Judicial Weekly of the Federation* are grouped. They are divided into two large periods: before and after the Political Constitution of the United Mexican States of 1917. The criteria of the First to the Fourth Periods, because they were prior to the validity of the Fundamental Text of 1917, are inapplicable today, that is, they are not valid and therefore, they are grouped within what is called "historical jurisprudence". The criteria of the Fifth to the Tenth Periods, that is, from 1917 to date, are part of the catalogue of the commonly called "applicable" or current jurisprudence. It is important to note that the fact that a criterion belongs to the latter period does not necessarily imply that it is valid and applicable, since these attributes are subject to multiple factors, including that its validity has not been interrupted in accordance with the provisions of the applicable regulations or that the criterion has not been overcome by virtue of the resolution of a conflict of theses.

There is no uniform criterion that defines when a period should be changed. Below are the particularities that marked the beginning of the publication periods, starting in 1917:

Fifth Era: Once the new constitutional order was established on February 5, 1917, the SCJN was installed on June 1 of that same year, and the first issue of this era appeared on April 15, 1918.

Sixth Period: Following the publication of the decisions of July 1957, substantial reforms were introduced that motivated the beginning of the Sixth Period. Of these reforms, the most important consisted of updating the publication, so that the decisions would be known shortly after they were issued; grouping separately, in monthly notebooks, the resolutions of the Plenary and those of each of the Chambers and, finally, arranging alphabetically for easier location, the theses contained in each notebook.

Seventh Era: the reforms and additions to the Federal Constitution and the Amparo Law, carried out in 1968, which gave jurisdiction to the Circuit Collegiate Courts to integrate jurisprudence, as well as to hear direct amparos, marked the end of the Sixth Era and the beginning of the Seventh.

Eighth Period: The constitutional and legal reforms of 1988, through which the Circuit Collegiate Courts assumed control over the legality of the acts of the authorities, made a new statute for jurisprudence urgent. This marked the birth of the Eighth Period.

Ninth Era: The reforms to the Political Constitution of the United Mexican States, published in the *Official Gazette of the Federation* on December 31, 1994, and reflected in the Organic Law of the Judicial Branch of the Federation, published in the aforementioned gazette on May 26, 1995—which repealed the previous law of January 5, 1988—marked the end of the Eighth Era and the beginning of the Ninth. By Agreement 5/1995 of the Full Court of the SCJN, dated March 13, 1995, the start date of the Ninth Era of the *Judicial Weekly of the Federation and its Gazette* was established on February 4, 1995.

Tenth Period: By virtue of the constitutional reforms published on June 6 and 11, 2011, in matters of amparo and human rights, respectively, the amparo trial must be seen as a new institution, because its essential elements have changed and because more guaranteeing interpretations are required, as well as protectionist interpretations of human rights. For this reason, the Plenary of the SCJN determined that a new period of the Judicial Weekly should be created, which would begin with the publication of the jurisprudence derived from the sentences issued after October 4, 2011—date of the entry into force of the constitutional reform in matters of amparo—, of the votes related to these, of the respective theses and of the various judgments issued after that date, which are expressly agreed upon by the aforementioned jurisdictional bodies.

Eleventh Era: With the entry into force of the Constitutional Reform in Federal Justice Matters on May 1, 2021, a new Era of the Judicial Weekly of the Federation was established, since, among other causes, there were changes in the system for creating jurisprudence, by eliminating the system of integration by reiteration in matters under the jurisdiction of the SCJN, in addition to establishing that the reasons that justify the decisions contained in the sentences issued by the Plenary by a majority of eight votes, and by Chambers, by a majority of four votes, will be mandatory for all jurisdictional authorities of the Federation and the federative entities. Likewise, the system of precedents for the integration of jurisprudence is inaugurated and changes are generated in the structure of the Judicial Branch.

LOCATION

Supreme Court of Justice of the Nation: Pino Suárez no. 2, Colonia Centro.

Cuauhtémoc, CP 06065, Mexico, Mexico City (<https://goo.gl/maps/So7jpmUrWE12>)

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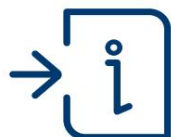
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