TOP 3 EMERGING TRENDS IN LITIGATION AND ARBITRATION IN MEXICO FOR 2025

As Mexico navigates a changing legal landscape, 2025 will bring significant shifts in litigation and arbitration. Judicial reforms, increased reliance on third-party funding, and the implementation of the National Code of Civil and Family Procedures (*Código Nacional de Procedimientos Civiles y Familiares*) are reshaping dispute resolution. These changes will have a lasting impact on businesses and legal professionals, influencing strategies and the overall legal framework. The following trends will be key in shaping the future of arbitration and litigation in Mexico.

I

Judicial Reform in Mexico:
Challenges and Implications for Litigation and Arbitration

The judicial reform represents one of the most consequential shifts in the country's legal framework in recent history. Driven by the current administration, the reform seeks to restructure the judiciary by altering the appointment process of judges and magistrates, limiting the power of independent courts, and introducing new mechanisms for judicial oversight. While its stated objective is to enhance transparency and democratize judicial functions, legal experts and business stakeholders have expressed concerns about its potential to weaken judicial independence and compromise the rule of law. Additionally, the enactment of the General Law on Alternative Dispute Resolution Mechanisms further highlights the increasing importance of arbitration and mediation, as mediation agreements certified by authorized mediators will now carry the force of res judicata, providing a more predictable avenue for dispute resolution amid judicial uncertainty.

This reform is unfolding amid heightened political polarization, where debates over the balance of power between the executive and the judiciary are intensifying. A key concern is the election of judges through popular vote, which could undermine the technical expertise and impartiality required for adjudicating complex commercial disputes. A judiciary that is more susceptible to political influences risks compromising the fairness and predictability of judicial decisions, particularly in cases involving regulatory matters or disputes with government entities. These risks are further exacerbated by the disappearance of regulatory agencies in strategic sectors such as energy and telecommunications, which may result in delays, the loss of technical expertise, and increased uncertainty for private and public stakeholders.

From a legal perspective, the reform introduces greater uncertainty in litigation outcomes. If the perception of judicial independence erodes, businesses may hesitate to rely on Mexican courts for dispute resolution, increasingly turning to arbitration and other alternative mechanisms. Additionally, concerns over due process and legal certainty could trigger a rise in appeals and constitutional challenges, further congesting the court system and prolonging litigation. The potential erosion of judicial independence could also affect litigation strategies, as politically influenced decisions may become more prevalent, particularly in regulatory, administrative, and commercial disputes. This could lead to less predictable judicial outcomes, increased legal risks for businesses, and lengthier litigation processes, as higher courts may need to correct flawed rulings.

Given these risks, companies engaged in litigation with government agencies or politically exposed entities may need to reassess their legal strategies, as the impartiality of court rulings could come into question. In this context, arbitration is becoming an even more attractive alternative, as it offers neutrality and independence that local courts may not guarantee. The enforceability of arbitral awards, both domestically and internationally under the New York Convention, further enhances its appeal. Additionally, arbitration's confidentiality and efficiency reduce the exposure to politically motivated litigation.

However, a greater reliance on arbitration also presents challenges. If Mexican courts become less reliable in enforcing arbitral awards, parties may have to seek enforcement in other jurisdictions, complicating dispute resolution. Furthermore, government contracts and regulatory disputes, which often do not include arbitration clauses, may still require engagement with an unpredictable judicial system.

Pre-arbitration interim measures play a fundamental role in arbitration today. On one hand, such measures—including asset freezing, injunctions, and maintaining the status quo—help ensure the enforcement of arbitral awards and preserve the subject matter of the dispute, thereby enhancing the efficiency of arbitration. To achieve this, judicial decisions that provide certainty to the parties are essential. On the other hand, in Mexico, interim measures have been misused to attempt to suspend or obstruct arbitration proceedings. Additionally, judicial courts have been approached to file lawsuits against arbitrators, exerting undue pressure on them. It is crucial to establish a robust judicial system that upholds a minimal-interference approach toward arbitration, ensuring that disputes are effectively resolved through alternative dispute resolution mechanisms.

Although the full impact of the judicial reform remains uncertain, businesses and legal practitioners must prepare for potential disruptions in litigation and dispute resolution. Strengthening arbitration clauses in contracts will be crucial to securing robust alternative dispute resolution mechanisms. Close monitoring of legal developments will be necessary to assess how judicial changes may affect ongoing and future litigation. Additionally, companies should consider international enforcement strategies when structuring transactions or resolving disputes to mitigate domestic legal risks. As judicial independence faces challenges, arbitration and alternative dispute resolution will likely play an even more central role in maintaining fairness and predictability in commercial disputes. Businesses and investors must remain proactive and informed to navigate this evolving legal landscape effectively.

II

Growing Use of Third-Party Funding in Arbitration and Litigation

Third-party funding (“**TPF**”) is emerging as a transformative factor in arbitration and litigation in Mexico, providing claimants with the financial backing necessary to pursue complex disputes without assuming the full economic burden. Traditionally more prevalent in jurisdictions such as the United States and Europe, TPF is now gaining ground in Latin America, particularly in Mexico, where the costs associated with high-value commercial and investor-state arbitrations can be prohibitive. As companies seek to mitigate financial risks while pursuing legitimate claims, the presence of third-party funders is reshaping dispute resolution dynamics.

Under a typical third-party funding arrangement, an external investment entity covers a party’s legal fees, arbitration costs, and related expenses in exchange for a share of any awarded damages. This model enables businesses with strong legal claims to access arbitration without exhausting their financial resources. In Mexico, the increasing interest from international litigation finance firms reflects the growing attractiveness of the market, particularly in disputes related to infrastructure, energy, and commercial transactions.

The expansion of third-party funding is having a profound impact on arbitration and litigation strategies in Mexico. By providing financial support to claimants who might otherwise be unable to pursue legal action, TPF is leveling the playing field, particularly for small and medium-sized enterprises facing well-capitalized opponents. Additionally, the presence of litigation funders can alter settlement dynamics, as respondents recognize that claimants now have the resources to sustain lengthy arbitration proceedings, reducing the likelihood of forced early settlements due to financial pressure.

Despite its benefits, the rise of third-party funding raises important ethical and regulatory considerations. Currently, Mexico lacks a specific legal framework governing TPF, which creates uncertainty regarding disclosure obligations, conflicts of interest, and the degree of control that funders may exert over proceedings. In international arbitration, institutions such as the ICC and ICSID have increasingly required disclosure of funding arrangements to promote transparency and prevent potential conflicts. Similar discussions are beginning to take shape in Mexico, as practitioners and arbitral institutions consider whether formal guidelines should be established to regulate the involvement of funders in disputes.

Looking ahead, the use of third-party funding is expected to continue growing in Mexico, particularly in high-stakes disputes where legal costs can be a significant barrier to justice. As arbitration remains a preferred mechanism for resolving commercial and investor-state conflicts, companies and legal practitioners must stay informed about evolving funding opportunities and the potential regulatory developments that could shape the future of TPF in the country. While the integration of TPF into Mexico's dispute resolution landscape presents opportunities for greater access to justice, it also requires careful consideration of the legal and ethical implications that accompany this evolving practice.

III

Mexico's National Code of Civil and Family Procedures: Standardization and Modernization in Judicial Practice

The implementation of the National Code of Civil and Family Procedure (*Código Nacional de Procedimientos Civiles y Familiares*, "**CNPCF**") marks a significant transformation in Mexico's judicial framework, aiming to standardize civil and family procedures nationwide. This reform seeks to unify procedural rules, reducing discrepancies among states and enhancing legal certainty. Its gradual application, scheduled to be completed by April 2027, introduces substantial changes that will require both legal professionals and society to adapt to new procedural mechanisms. One of its most notable features is the incorporation of technological tools to expedite legal activities, which could modernize litigation by improving efficiency and access to justice.

The new code's application follows a phased schedule, beginning with its partial enforcement in December 2024. In civil matters, the first stage will cover special oral proceedings, including mortgage and real estate leasing disputes, as well as preparatory measures, appeals, and defensive remedies. By mid-2025, its scope will extend to voluntary jurisdiction matters, precautionary measures, and oral summary civil proceedings. The final stage, set for November 2025, will incorporate oral ordinary civil proceedings, enforcement procedures, and other actions. Additionally, its provisions will apply subsidiarily to cases governed by the National Asset Forfeiture Law (*Ley Nacional de Extinción de Dominio*), the Commercial Code (*Código de Comercio*), and other relevant legislation within Mexico City.

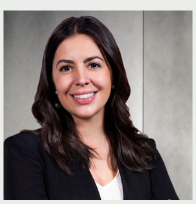
For family law proceedings, the reform follows a similar gradual implementation. From December 2024, the new procedural rules will govern voluntary jurisdiction matters and family disputes unrelated to divorce. By June 2025, it will expand to additional family law cases, excluding probate matters. Finally, by November 2025, the code will apply to probate proceedings, both testamentary and intestate, thus fully integrating family law disputes into the new procedural framework.

This staggered implementation is intended to allow courts, legal practitioners, and litigants time to adjust to the procedural modifications, minimizing disruption while facilitating a smoother transition. A key aspect of this reform is the mandatory use of technological platforms to streamline judicial processes, reduce bureaucratic delays, and enhance procedural transparency. The digitalization of filings, notifications, and case management is expected to improve court efficiency and access to justice, particularly for parties located in remote areas.

The gradual enforcement of this new framework presents both challenges and opportunities. Legal professionals must familiarize themselves with the new procedural structure, which may require retraining and adjustments in litigation strategies. Likewise, courts must adapt their administrative processes to accommodate digital tools and ensure compliance with the new regulations. For litigants, the standardization of procedural rules should enhance predictability in civil and family disputes, reducing inconsistencies that currently arise from variations in local procedural laws.

As the CNPCF continues its rollout, its impact on litigation will become clearer. The success of this reform will largely depend on the judiciary's ability to implement these changes effectively and the legal community's readiness to adapt. If properly executed, this new procedural framework could represent a significant step forward in improving access to justice and ensuring more efficient dispute resolution in Mexico.

If you have any questions concerning this note, please contact our Dispute Resolution team.



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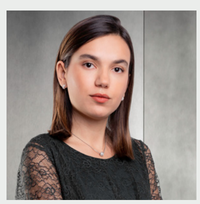

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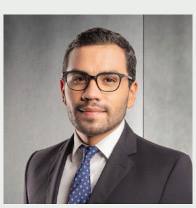

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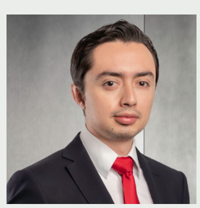

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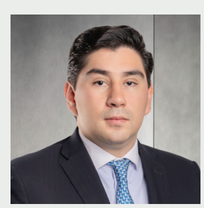

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