

Alert | Regulatory & Administrative Law



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Mexico's Supreme Court Finds General Health Law Articles Prohibiting Recreational Use of Marijuana Unconstitutional

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On June 28, 2021, with an eight-vote majority, Mexico's Supreme Court of Justice issued a General Finding of Unconstitutionality that suppresses sections of the prohibition set forth in the General Health Law for the recreational use of cannabis and tetrahydrocannabinol, while urging the Congress to legislate on the matter, as the last extension established according to the Amparo Law expired April 30.

The Mexican Congress had a 90-day term to legislate on the recreational use of cannabis and tetrahydrocannabinol. Notwithstanding the Chamber of Deputies' approval of the bill to enact the Federal Law for the Regulation of Cannabis to amend the relevant provisions of the General Health Law and the Federal Criminal Code in their March 10, 2021, ordinary session, approval remains outstanding from the Chamber of Senators for the law's subsequent enactment and publication in the Federal Official Gazette (*Diario Oficial de la Federación*, [DOF](#)). Therefore, the law is in non-compliance with the constitutional mandate, resulting in the Court's General Finding of Unconstitutionality. For more information on the draft decree, please see our March 2021 GT Alert, [Recreational Use of Cannabis in Mexico: Draft Decree Issued for the Federal Law Regulating Cannabis, Amending the General Health Law and Federal Criminal Code Provisions](#).

Although this ruling does not eliminate the prohibition on the use, consumption, and commercialization of marijuana for recreational purposes entirely, it orders the Federal Commission for the Protection Against Sanitary Risks (COFEPRIS) to establish guidelines and processes for the acquisition of the seed and allows users to request a permit from this authority to grow and use marijuana. This permit will be limited to adults and personal use only, as long as third parties are not affected, meaning that marijuana may not be consumed in public places or while driving a vehicle or operating machinery.

It is important to note that this General Finding of Unconstitutionality neither implies the decriminalization of consumption, increases the allowed possession grammage, nor allows the commercialization of marijuana products for recreational use. The Supreme Court's ruling will become effective once the Congress of the Union is notified and once is published in the DOF within seven business days after June 28, 2021. In the event that the unconstitutional general rule is applied after the ruling's entry into force, the affected party may ask a district judge to order the applying authority to cancel such act.

** This GT Alert is limited to non-U.S. matters and law.*

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