CONTRADICTION OF THESIS 261/2018 CAUSED BETWEEN THE SECOND COLLEGIATE COURT IN CRIMINAL MATTERS OF THE FIRST CIRCUIT AND THE FIRST COLLEGIATE COURT IN CRIMINAL MATTERS OF THE SIXTEENTH CIRCUIT.

SPEAKER MINISTER: LUIS MARÍA AGUILAR MORALES
SECRETARY: URSULA VIANEY GÓMEZ PEREZ

APPROVAL
MINISTER

Mexico City. Agreement of the First Chamber of the Supreme Court of Justice of the Nation, corresponding to March 13, two thousand and nineteen.

SEEN; and,

RESULTING:

FIRST. Complaint of Contradiction. By means of a brief presented at the Office of Judicial Certification and Correspondence of this High Court on August twenty-second, two thousand and eighteen,************,in her own right, in her capacity as complainant in the amparo trialindirect 462/2018, from which derived the jurisdictional conflict 6/2018, and on behalf of his son************, denounced the possible contradiction of criteria between those supported by the Second Collegiate Court in Criminal Matters of the First Circuit and the First Collegiate Court in Criminal Matters of the Sixteenth Circuit.

SECOND. Procedure before the Supreme Court of Justice of the Nation. By agreement of August 27, 2018, the President of the Supreme Court of Justice of the Nation ordered, among other issues, the formation and registration of the file related to the present complaint of contradiction of thesis under number 261/2018 and , on the other hand, that the matter be referred to Minister Arturo Zaldívar Lelo de Larrea, so that he formulate the corresponding draft resolution and send the records to the Chamber under his affiliation.

By order of September 26, 2018, when the matter was duly integrated, the President of the First Chamber ordered the sending of the documents to the presentation of the Minister presenter.

THIRD. return. By agreement of January 9, two thousand and nineteen, it was ordered to return the recordsfor the processing and/or elaboration of the respective draft resolution,Minister Luis María Aguilar Morales who, by determination of the Full Court, was attached to the First Chamber of this High Court, instead of Minister Arturo Zaldívar Lelo de Larrea, due to his appointment as President of the Supreme Court of Justice of the Nation;

CONSIDERING:

FIRST. Competence. This First Chamber is competent to hear and resolve the present contradiction of thesis in accordance with the provisions of articles 107, section XIII, of the General Constitution and, 226, section II, of the Amparo Law, in relation to the first points , second section VII and third of General Agreement 5/2013, by virtue of the fact that it is a complaint of contradiction of thesis raised between the criteria of two collegiate courts of different circuit, both in criminal matters, exclusive competence of this First Chamber.

SECOND. Legitimation. The complaint of contradiction of thesis comes from a legitimate party, in accordance with the provisions of article 227, section II, of the Amparo Law[1], since it was formulated by**********, in his own right and on behalf of his son**********,in her capacity as

[1]Article 227. The legitimacy to denounce the contradictions of thesis will be adjusted to the following rules: […]
II. The contradictions referred to in section II of the previous article may be denounced before the Supreme Court of Justice of the Nation by the ministers, the Circuit Plenary Sessions or the collegiate circuit courts and their members, who have supported the dissenting theses, the Attorney General of the Republic, the district judges, or the parties in the matters that motivated them.

complainant in the indirect amparo trial 462/2018, from which the jurisdictional conflict 6/2018 derived; contesting criteria in this matter.

THIRD.Contradictory criteria. In order to verify the possible existence of the reported contradiction of criteria, it is necessary to highlight the considerations supported by the collegiate courts in conflict.

I. Criterion of the Second CourtCollegiate in Criminal Matters of the First Circuit, when resolving the jurisdictional conflict 12/2017.

**********filed an indirect amparo lawsuit in Mexico City, on behalf of his nephew**********, against the forced disappearance of the latter, which was attributed to the Head of the Secretary of the Navy residing in Mexico City, the Matamoros Naval Sector, the Special Operations Unit of the Mexican Navy, residing in Tamaulipas and the First Military Naval Zone, with address in Ciudad Madero, Tamaulipas.

The district judge of Mexico City filed and registered the amparo claim, however, he deemed he lacked legal jurisdiction due to territory and declined jurisdiction in favor of the District Court in the State of Tamaulipas, residing in Matamoros, in turn , who also did not accept the declined jurisdiction and ordered the file to be returned.

By means of a judgment handed down in a session of October 5, two thousand and seventeen, the aforementioned Collegiate Court, when resolving the jurisdictional conflict12/2017, determinedthat the competent district judge to hear indirect amparo claims in which acts of forced disappearance are claimed**is the one who warned in his knowledge. The foregoing, based on the following considerations:**

"**THIRD. DETERMINATION OF THE COMPETENT BODY.**

> The jurisdiction to hear the matter resides in the Fourth District Court of Amparo in Criminal Matters in Mexico City, since the competent court to hear the claim for fundamental rights where acts constituting forced disappearance of persons are claimed is that before which the corresponding writ is filed.

To support the foregoing, it is necessary to a) characterize forced disappearance as a serious violation of fundamental rights; b) outline the procedure set forth in the Amparo Law to inform the amparo courts of acts of forced disappearance, and c) clarify the rules of jurisdiction to hear lawsuits where these types of events are reported.

A. Forced disappearance as a serious violation of human rights

Forced disappearance is a multiple and complex violation of human rights, including: the right to personal liberty and security; not to be subjected to torture, cruel, inhuman or degrading treatment; to the truth, particularly to know the truth about the circumstances of the disappearance; to the protection and assistance to the family; to an adequate standard of living; to health; to education; to the recognition of legal personality, and to life, in the event of the death of the disappeared person. It is an accumulation of illegal acts that generates a multiple, continuous and, in some cases, permanent violation of rights and places the victim in a state of complete defenselessness.

The Inter-American Court of Human Rights has established that, given the nature of the rights violated, forced disappearance constitutes a serious violation of human rights, in case of abandonment of the essential principles on which the inter-American system is based, which is non-derogable and imprescriptible. . Given that the victim is placed in a state of complete defenselessness, it is especially important that the State take all the necessary measures to avoid said events; investigate them; punish those responsible; inform the relatives of the whereabouts of the disappeared person, and indemnify them if applicable. These state obligations have reached the character of ius cogens.

In accordance with Article II of the Inter-American Convention on Forced Disappearance of Persons, this is the deprivation of liberty of one or more persons, whatever its form, committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by the lack of information or the refusal to acknowledge said deprivation of liberty or to inform about the whereabouts of the person, thereby preventing the exercise of legal remedies and the relevant procedural guarantees.

The concurrent and constitutive elements of forced disappearance are: a) the deprivation of liberty; b) the direct intervention of State agents or by their acquiescence, and c) the refusal to acknowledge the detention and to reveal the fate or whereabouts of the person concerned. According to the jurisprudence of the Inter-American Court, one of the characteristics of forced disappearance, unlike extrajudicial execution, is that it entails the refusal of the State to recognize that the victim is under its control and to provide information in this regard, with the purpose of generate uncertainty about their whereabouts, life or death, cause intimidation and suppression of rights.

Article III of the cited Convention characterizes it as a continuing or permanent crime as long as the fate or whereabouts of the victim is not established. The Inter-American Court points out that the deprivation of the individual's liberty

should only be understood as the beginning of the configuration of a complex violation that continues in time until the fate and whereabouts of the victim are known and the facts have not been confirmed. enlightened; Therefore, the analysis of a possible forced disappearance should not be focused in an isolated, divided and fragmented manner only on the detention, or the possible torture, or the risk of losing one's life, but rather the focus should be on the set of facts presented in the case under consideration. This has been repeatedly recognized by International Human Rights Law.

This is supported by the jurisprudential thesis P./J. 48/2004 derived from the constitutional controversy 33/2002, supported by the Plenary of the Supreme Court of Justice of the Nation, visible in the Judicial Weekly of the Federation and its Gazette, ninth period, volume XX, July 2004, page 968 , heading and following texts:

“FORCED DISAPPEARANCE OF PEOPLE. THIS CRIME IS OF A PERMANENT OR CONTINUING NATURE. [The text of the criterion is quoted]”.

B. Forced disappearance as an unlawful act that can be claimed before the amparo judges.

Victims of forced disappearance and their relatives have access to the constitutional means to demand illegal acts in their aspect of serious violation of human rights. Indeed, the legislation on the matter provides for a special procedure for the processing of the demand for acts of forced disappearance.

In accordance with article 15 of the Amparo Law, the victim of acts of forced disappearance may file a claim for guarantees by himself and, when he is unable to do so, through any other person. The amparo claim can be promoted at any time and hour, either in writing, by appearance or by electronic means.

When the person filing the claim states so or due to the circumstances of the case it appears that it is a possible commission of the crime of forced disappearance of persons, the judge will have a term of no more than 24 hours to process the amparo, issue the suspension —ex officio and outright— of the acts, and request from the corresponding authorities all the information that may be conducive to the location and release of the probable victim.

If the court achieves the appearance of the offended party, it will be required to ratify the amparo claim; Only then will the trial proceed. However, if despite the measures taken by the amparo court the appearance of the aggrieved party is not achieved, it must resolve the definitive suspension; order to suspend the proceeding in the main and make the facts known to the Public Ministry of the Federation. Finally, after a year has elapsed without anyone appearing in person at the trial, the claim will be deemed not to have been filed.

However, from the study carried out in the preceding section, it can be deduced that the characteristics of the acts of forced disappearance prevent them from being classified as acts properly claimed in a fundamental rights trial, in the ordinary sense of the expression.

The second paragraph of article 1o. of the Law of Amparo establishes that the trial of fundamental rights protects the fundamental rights of people against general norms, acts or omissions on the part of public authorities or

individuals in the cases indicated by it. However, not every act issued by a State body constitutes an act of authority for the purposes of the amparo trial, that is, susceptible to being reviewed in a constitutional trial.

Pursuant to the provisions of article 5. of the Law of Amparo, has the character of responsible authority who, regardless of their formal nature, dictates, orders to execute or tries to execute acts that create, modify or extinguish legal situations in a unilateral and obligatory manner, or omit to carry out this type of acts. From the foregoing it follows that the character of responsible authority is not obtained from its formal nature, but from the act attributed to it.

Authorities for the purposes of the amparo trial are those who dispose of the public force by virtue of circumstances, whether legal or de facto, and who, therefore, are materially able to exercise public acts endowed with power and establish between themselves and the person who addresses the act a relationship of supra and subordination. What is relevant is not the coercive material power, but the power of empire that the State (or the individuals that are equivalent to it) has to legally affect the legal sphere of the governed -the accumulation of rights and obligations- in a unilateral and binding manner, independently its effectiveness is imposed immediately or eventually by various means. Therefore, the effects of the challenged act occur mainly at the legal level.

The authority, whether it is a public entity or an individual acting on the basis of a general norm, is located in a relationship of supra to subordination with respect to a governed and exercises a "public force" understood in the sense of "empire" (so unilateral and with binding effects) and not as material coercive power, which is legally empowered to deploy the act of authority, that is, acting not arbitrarily, but by virtue of the authorization granted by a general legal norm.

Supports the foregoing, the jurisprudential thesis 2a./J. 164/2011 supported in the ninth period by the Second Chamber of the High Court, consultable in the Judicial Weekly of the Federation and its Gazette, volume XXXIV, September 2011, page 1089, with the following text and heading:

“**AUTHORITY FOR THE PURPOSES OF THE AMPARO TRIAL. DISTINCTIVE NOTES. [The text of the criterion is quoted]”.**

Having clarified the above, from the study carried out in the previous section it can be deduced that forced disappearance does not constitute an act of authority or act claimed in the sense previously stated.

First, it is not an act of authority issued in the exercise of its legal powers. Consequently, it constitutes an illegal act of the state authorities that is not based on a general norm and that, in addition, constitutes a crime. Therefore, it is not an act of authority clothed with empire or with binding effects, but an act of a state agent or an individual acting with the acquiescence of the State, exercising coercive material power, an abuse of power and the state apparatus.

Then, given that it is characterized by the lack of information on the part of the state authorities and the refusal to acknowledge the deprivation of liberty or to inform about the whereabouts of the person, it is not possible to determine with certainty the authorities responsible nor the place or places

where the multiplicity of facts, conducts and omissions that constitute the crime in question are being carried out or have been carried out.

In view of the foregoing, the jurisdiction rules established in article 37 of the Amparo Law are not applicable, which determine the competent district court to hear the matter using as criteria the place where the act claimed must be executed. , try to run, runs or has run.

Therefore, it is necessary to clarify the rule of jurisdiction to determine the competent court to hear applications for protection of enforced disappearance.

C. Jurisdiction to hear applications for amparo for acts of forced disappearance

The legislator conferred on the district judges the protection of the rights of the victims of forced disappearance by including this assumption as a "claimable" fact by filing an amparo petition. The foregoing, given that article 35 of the law on the matter prescribes that the district courts are the competent bodies to hear indirect amparo and that it proceeds against acts or omissions that come from authorities other than judicial, administrative or of work, as is the case of acts of forced disappearance.

Given that one of the objectives of the crime of forced disappearance of persons is to prevent the exercise of legal remedies and the pertinent procedural guarantees, it is essential that their relatives or close friends be able to access prompt and effective judicial procedures or remedies, as a means to determine his whereabouts. In this sense, the legislator provided a mechanism within the Amparo Law to determine the fate of the victim; determine if there has been a violation of their human rights, and provide what is necessary to remedy it.

The district judge, as guarantor of the fundamental rights of the governed and by virtue of the constitutional mandate contained in article 1. Constitution, the search, location and liberation of the victims must be advocated by all the means at his disposal, according to the faculties that the laws confer on him.

Therefore, the regular formalities that the amparo trial is provided for, in the face of a lawsuit in which acts of forced disappearance are claimed, acquire a different treatment in the face of the serious and simultaneous violation of human rights, since the disappeared person is unable to enjoy and exercise others and, eventually, all the rights of which it is the holder, by removing it from all areas of the legal system, leaving it in a kind of limbo or legal indeterminacy before society and the State.

In this context, and taking into account the characteristics indicated in the previous section regarding forced disappearance as an illegal act "reclaimable" via amparo, it is possible to conclude that the competent court to hear amparo claims in which acts of forced disappearance is the one that prevented in his knowledge. The foregoing, since i) it is not possible to determine with certainty which are the responsible authorities, and ii) it is not possible to specify exactly where the acts are being carried out. Likewise, the Amparo Law does not establish a limitation to the jurisdiction of the amparo judges to hear the demands of forced disappearance.

Prevention is a complementary criterion to determine jurisdiction when several judges may be competent to hear the same matter simultaneously. In

these cases, the one who has prevented the cause, that is, the one who has known first, is competent.

In the specific case, although the plaintiff of the constitutional trial stated that the deprivation of liberty of the direct complainant occurred in Valle Hermoso, Tamaulipas, this fact is not enough to estimate that the rest of the acts tending to its execution are being carried out. in that entity or that authorities based in Tamaulipas are the ones that carried out the illegal acts; especially since, according to what the amparo petitioner referred to, the Tamaulipas authorities did not provide her with information on the whereabouts of the complainant. So much so, that she went to make the relative complaint before the social representation in Mexico City, the town where she resides and, later, presented the demand for guarantees before the district courts in criminal matters in this metropolis.

This is in accordance with the right of indirect victims to an effective judicial remedy. The rights of the next of kin of the victims of forced disappearance include the right to access justice, the truth and personal integrity.

Article 8.1 of the American Convention, in relation to the other 25.1, grants the next of kin of the victims the right to have the disappearance and death of the latter effectively investigated by State authorities; a process is followed against those responsible for these crimes; where appropriate, the pertinent sanctions be imposed, and the damages and losses that said relatives have suffered be repaired.

The Inter-American Court has reiterated that it is not enough to provide for the existence of remedies, if they are not effective to combat the violation of the rights protected by the Convention. This guarantee of protection of the rights of individuals implies not only the direct protection of the violated person, but also the family members, who, due to the particular events and circumstances of the case, are the ones who file the claim in the domestic order.

In the Case of Radilla Pacheco against the Mexican State, the Inter-American Court indicated that in the face of acts of forced disappearance of persons, the State has the obligation to guarantee the right to personal integrity of the next of kin, also through effective investigations. Furthermore, the absence of effective remedies has been considered by the Court as a source of additional suffering and anguish for the victims and their next of kin.

Regarding the reasonableness and effectiveness of the remedies, the Inter-American Court has indicated that the following elements must be taken into account: a) the complexity of the matter; b) the procedural activity of the interested party; c) the conduct of the judicial authorities, and d) affectation generated in the legal situation of the person involved in the process.

In the case at hand, the nature of the claim is relevant: a serious violation of fundamental rights. This is reinforced by the fact that one of the objectives of forced disappearance is to prevent the exercise of legal remedies and the relevant procedural guarantees, when a person has been subjected to kidnapping, retention or any form of deprivation of liberty. in order to cause their enforced disappearance. Given that the victim herself cannot access available remedies, it is essential that family members or other close relatives be able to access prompt and effective judicial procedures or remedies as a means to determine their whereabouts or state of health or to identify the authority that ordered the deprivation of liberty or made it effective.

> In this sense, the procedural activity of the victim's next of kin denotes their desire to access justice in Mexico City, the town where the amparo petitioner resides and, in particular, given the reluctance of the Tamaulipas authorities to attend to the requests of information regarding the victim of forced disappearance.

Then, since the Fourth District Court for Amparo in Criminal Matters in Mexico City warned of the demand for guarantees, it is competent to hear it.

This conclusion, in essence, is based on considering that forced disappearance is not an act claimed in the traditional sense, but rather a serious violation of human rights and a crime. This even coincides with the rationality of the generic jurisdiction hypotheses established in article 37 of the Amparo Law, which establish that when the claimed act can be executed in more than one district or has begun to be executed in one of them and continues to be executed in another, or even, when this does not require material execution, the district judge before which the claim is filed is competent."

Criterion I.2o.P.60 P (10a.) emerged from the previous execution, under the heading: "**FORCED DISAPPEARANCE. JURISDICTION TO KNOW THE DEMANDS PROMOTED BY THESE FACTS, IS SUPPLIED IN FAVOR OF THE DISTRICT JUDGE THAT PREVENTION IN KNOWLEDGE OF THE MATTER."**[2].

II. Criterion of the First Collegiate Court in Criminal Matters of the Sixteenth Circuit when resolving the conflictcompetence 6/2018.

[2]Epoch: Tenth Epoch. Registration: 2016555. Instance: Collegiate Circuit Courts. Type of Thesis: Isolated. Source: Gazette of the Judicial Weekly of the Federation. Book 53, April 2018, Volume III. Subject(s): Common. Thesis: I.2o.P.60 P (10a.). Page: 2074. Whose text is the following: The acts of forced disappearance, subject to investigation by the Federal Judges in light of article 15 of the Amparo Law, cannot be classified as acts claimed for the purposes of the amparo trial. . This is due, in the first place, to the fact that they are not acts of authority issued in the exercise of their legal powers, but constitute an illegal act that is not based on a general norm and that, furthermore, constitutes a crime. Therefore, they are not acts of authority clothed with empire or with binding effects, but rather acts of State agents or individuals acting with the acquiescence of the State, exercising coercive material power, an abuse of power and of the State apparatus. Secondly, given that forced disappearance is characterized by the lack of information by state authorities and the refusal to acknowledge the deprivation of liberty or to report on the whereabouts of the person, it is not possible to determine with certainty the authorities responsible nor the place or places where the multiplicity of facts and conducts that constitute the crime are being carried out or have been carried out. For these reasons, with respect to the facts referred to, the jurisdiction rules established in article 37 of the law itself are not applicable, which determine the competent District Court to hear an amparo claim, using as a criterion, the place where the claimed act should be executed, try to be executed, is executed or has been executed. In this sense, the District Court competent to hear the amparo claims in which acts constituting forced disappearance are claimed is the one that advised it, especially since the law on the matter does not establish a limitation to the jurisdiction of the Amparo judges to hear claims for forced disappearance and, furthermore, prevention is a complementary criterion to determine jurisdiction when several Judges may be competent to hear the same matter simultaneously. In addition, the Inter-American Court of Human Rights has established that one of the criteria to measure the reasonableness and effectiveness of the remedies is the procedural activity of the interested party; For this reason, in the case of forced disappearance, this translates into the right of the victims to choose the Judge before whom they present their claim.

ByOn the other hand, in a session of July 11, two thousand and eighteen, the First Collegiate Court in Criminal Matters of the Sixteenth Circuit resolved the jurisdictional conflict 6/2018; matter in which it was determined that, in the cases in which the act claimed consists of the forced disappearance of a person, in terms of article 37, first paragraph, of the Amparo Law, the judge whohas jurisdiction in the place where the claimed act was performed.

The above conclusion was reached through the following considerations:

> **"THIRD.**It is determined that the Third District Judge in the State of Tamaulipas, based in Nuevo Laredo, is legally competent to hear the amparo proceeding promoted by**********as complainant and on behalf of her son**********based on the following reasons:
>
> In order to establish it, in the first place, it must be taken into consideration that article 37 of the Amparo Law distinguishes three basic rules to determine jurisdiction by reason of territory –which is the one discussed here– to hear an amparo claim, being the following:
>
> **a)** When the claimed act is materially enforceable, the judge having jurisdiction in the place in which it should, is being or has been executed will be competent.
>
> **b)** If the act claimed can be carried out in more than one district, or has begun to be carried out in one of them and continues to be carried out in another, the judge before whom the claim is filed will be competent.
>
> **c)** Finally, when material execution of the claimed act is not required, the judge in whose jurisdiction the libel is filed will know.
>
> To understand these rules properly, it is necessary to refer to the interpretation made by the Supreme Court of Justice of the Nation in relation to the cases of territorial jurisdiction of the district judges.
>
> It should be noted that most of this jurisprudence was issued in light of the Amparo Law currently abrogated, however, in terms of the sixth transitory article of the current regulations, it is possible to consider it applicable for the interpretation of the first two paragraphs of the article 37 of the law in force, in the part that maintains substantial identity with what was established in the first two paragraphs of article 36 of the repealed regulations, as evidenced by the following box (emphasis and underlining added):
>
> […]

> From the table transcribed above, it can be seen that the first paragraph of article 36 of the repealed Amparo Law provides for a jurisdiction rule that is practically identical to the one currently regulated by the first paragraph of article 37 of the Amparo Law.

This is affirmed because both regulate the territorial jurisdiction of district judges when hearing an amparo lawsuit filed against acts that should be executed, try to be executed, are executed or have been executed, that is, acts that merit a material execution, in which case, jurisdiction lies precisely in the district judge where – redundancy is worth it – that execution will materialize, regardless of the place where the act was ordered.

This is how the First Chamber of the Supreme Court of Justice of the Nation defined it when issuing jurisprudence 37/2004, with the following heading and text:

COMPETENCE. IF THE ACT REQUESTED IS AN APPREHENSION ORDER AND THE COMPLAINT IS DEPRIVED OF HIS LIBERTY, THE DISTRICT JUDGE IN WHOSE JURISDICTION THE EXECUTION TAKES PLACE.[The text of the criterion is transcribed].

This criterion has been taken up by the Second Chamber of the Supreme Court of Justice of the Nation, even already in interpretation of the Amparo Law in force, as can be seen from jurisprudence 68/2015, titled and summarized as follows:

JURISDICTION TO HEAR THE AMPARO TRIAL AGAINST THE DETERMINATION OF TERMINATION OF SERVICE DUE TO SEPARATION FROM A PUBLIC SERVANT. IT CORRESPONDS TO THE DISTRICT JUDGE WITH JURISDICTION WHERE THE MANDATE IS EXECUTED.[The text of the criterion is transcribed].

On the other hand, the second paragraph of both laws also bears a certain similarity, but in turn contains an important modification.

As regards what is similar, the jurisdiction rule established in said normative statements is made to depend, firstly, on the existence of an act of authority that requires material execution and, secondly, that this material execution can occur in more than one judicial district.

That is, in order to update this paragraph, it is necessary to determine the executive nature of the act of authority and that said execution can materialize in more than one judicial district. This is the similar part of both legislations.

On the subject, the thesis XLIX/93 of the extinct Third Chamber of the Supreme Court of Justice of the Nation, with the following epigraph and epitome, is illustrative:

JURISDICTION IN AN AMPARO TRIAL IN WHICH THE ACTS CLAIMED MUST BE EXECUTED IN DIFFERENT DISTRICTS. IT CORRESPONDS TO THE JUDGE BEFORE WHOM THE DEMAND IS SUBMITTED.[The text of the criterion is transcribed].

However, it is important to note that the new Amparo Law contains a different statement in the aforementioned second paragraph of its article 37, the one that indicates: "it can be enforced." This sentence does not actually imply a modification of the two requirements that have been discussed to update

territorial jurisdiction, namely: that the act claimed is enforceable and that enforcement can materialize in more than one judicial district.

In order to understand this addition to the normative provision, the following questions must be answered: Can the assumption of competence referred to in the second paragraph of article 37 of the Amparo Law be updated only in the face of a vague, future and uncertain suspicion that The act claimed has been executed or can be executed in more than one judicial district? In other words, does the lack of knowledge that the challenged act may or may not continue to be carried out in different judicial districts allows the update of this jurisdiction hypothesis? The answer to this question must of course be negative.

In order to sustain it, it is important to remember that when resolving the contradiction of thesis 96/2003, the Second Chamber of the Supreme Court of Justice of the Nation determined that the intention of the legislator when establishing the competence of the district judges based on the material execution of the acts or resolution demanded was that the governed be able to go immediately to the district judge, the nearest one, which cannot be other than the place where the act must be executed, try to be executed, is executed, the act claimed has been executed Or, before any of the district judges with jurisdiction in the districts when the act has begun to be carried out in one district and continues to be carried out in another, since only in this way can an immediate defense be obtained against the act of authority,stopping the execution if the act is one of those that by its nature are likely to be suspended in accordance with the provisions of the law of the matter.

In this sense, the Court established, despite the fact that the claimed acts could be carried out in any of the districts over which various amparo courts exercise jurisdiction, the updating of the rule of competence to prevention requires that in effect the act of authority has started running in one district and continue running in another; which cannot be affirmed when the application for amparo does not indicate that circumstance and there are no indications, data or proof that the execution of the claimed acts is being carried out in various districts.

Jurisprudence 108/2003 arose from these considerations, which is reproduced hereinafter for greater clarity.[3]:

COMPETENCE. THE SECOND PARAGRAPH OF ARTICLE 36 OF THE AMPARO LAW IS INAPPLICABLE TO FIX IT, WHEN CIRCULARS OR ORDERS ARE CLAIMED TO STOP, SEIZE, SEIZE OR CONFISCATE VEHICLES AND THERE IS NO DATA THAT THEY BEGAN TO BE EXECUTED IN A DISTRICT AND CONTINUED IN OR TRO.[The text of the criterion is transcribed].

In this way, the normative statement added to article 37, second paragraph, of the Amparo Law, which indicates that the district judge before whom the claim is filed will be competent in the event that the act claimed “can[a] have execution" within that jurisdiction, should not be understood as a simple vague, future and uncertain possibility, against which the amparo lawsuit would not even be appropriate.[4], but rather as an eventuality that would

[3]Corresponding to the Ninth Period, registration: 182874, published in the Federal Judicial Weekly and its Gazette, Volume XVIII, November 2003, page 135.

[4]On the subject, see the criterion supported by the First Chamber of the Supreme Court of Justice of the Nation, in the Fifth Period of the Judicial Weekly of the Federation, Volume XLI, page 1740, with

> actually materialize if the amparo is not granted or, where appropriate, the suspension of the act claimed.
>
> This exegesis is corroborated if it is taken into account that admitting the contrary proposition could lead to the extreme of allowing the processing of amparo proceedings before legally incompetent judges, making it possible to reinstate such procedures to the detriment of the prompt delivery of justice to which the governed.

Indeed, if jurisdiction were to be established to hear an amparo claim in favor of the district judge before which the claim was filed, solely based on the lack of knowledge of the places where the act of authority could possibly continue to be executed , would lead to the fact that, at the time the constitutional hearing is held, the court in question notices that the justified reports do not show any act of material execution within its jurisdiction or of any other jurisdiction other than that of the authorizing authority, which would force it again to declare themselves legally incompetent and refer the proceedings to the judge who does have such jurisdiction, since failing to do so, the reviewing body would be constrained to order the reinstatement of the procedure.
The foregoing is sustained based on jurisprudence 8/2001, of the Plenary of the Supreme Court of Justice of the Nation, which is transcribed for greater clarity:

COMPETENCE OF THE DISTRICT JUDGE. IF YOU DO NOT DECLINE IT DESPITE THE FACT THAT THE EXECUTING AUTHORITY FOR YOUR RESIDENCE DENIED THE COMPLAINTED ACT AND SUCH REFUSAL WAS NOT DIVERTED, THE COLLEGIATE CIRCUIT COURT, NOTING THAT LACK OF COMPETENCE, DURING THE REVIEW, WHETHER BY THE APPROACH OF THE UNCONFORMED OR EVEN OFFICIO YOU SHOULD REVOKE THE JUDGMENT AND SEND THE RECORDS TO THE JUDGE THAT YOU CONSIDER COMPETENT.[The text of the criterion is transcribed].

Therefore, this court converges with the criterion supported by the requesting judge, in the sense that the jurisdiction rule contained in the second paragraph of article 37 of the Amparo Law, in the part that – it is insisted – is similar to the established in the second paragraph of numeral 36 of the repealed regulation, cannot be considered applicable under the argument that the places where the act of authority could be executed are unknown, precisely because the origin of that normative portion requires the possible real materialization of said act in different judicial districts.

Admitting the contrary proposition would imply allowing the complainant to determine the jurisdiction of the district judge to hear the amparo claim, in a case other than that provided for in the law.

Indeed, going to the portion that is different in the second paragraph of article 37 of the Amparo Law in relation to the second paragraph of numeral 36 of the abrogated ordinance, we find that, contrasting with what is established in the last cited regulation, the The law in force does not require that territorial jurisdiction, in the event that the act claimed can be executed in more than one judicial district, must be established between one of the jurisdictions within those jurisdictions.

---

the registration number 312962, of the following heading and text : “FUTURE AND UNCERTAIN ACTS. The amparo is inadmissible against that class of acts, and must be dismissed with respect to them.”

For clarity, please read the second paragraph of those rules again (emphasis added):

[…]

From the table transcribed above, it can be seen that the second paragraph of article 36 of the Amparo Law contained a statement that is no longer read in the second paragraph of article 37 of the Amparo Law, specifically, the one that indicates "any of the judges of those jurisdictions.

That is, the different part between the abrogated regulations and the one in force is that in the first, if the legal hypothesis is fulfilled – a claimed act that can be executed in more than one judicial district – the competence should be established in the jurisdictional body that prevented in the knowledge of the matter, provided that any of these possible acts of execution occurred, in effect, within its jurisdiction.

On the subject, case law 52/2013 issued by the First Chamber of the Supreme Court of Justice of the Nation can be consulted, under the following heading and text:

COMPETENCE TO KNOW THE PROTECTION AGAINST AN ARREST OR APPREHENSION ORDER. IT IS SUPPLIED IN FAVOR OF THE DISTRICT JUDGE WITH JURISDICTION IN THE PLACE WHERE THE COMPLAINANT, UNDER PROTEST TO TELL THE TRUTH, ASSURES THAT HE IS TRYING TO BE EXECUTED, EVEN WHEN HE FAILS TO INDICATE THAT THE EXECUTING AUTHORITY HAS RESIDENCE IN THAT SAME TERRITORIAL CIRCUMSCRIPTION, PROVIDED THAT HE CLARIFIES ITS DEMAND AND MAKE THE CORRESPONDING SIGNALING.[The text of the criterion is transcribed].

On the other hand, the current norm does not require that the competence be settled in any of the district judges that have jurisdiction in a demarcation where there is the [real] possibility of execution of the claimed act, but it is enough that the supposed normative act be updated. claimed that can be executed in more than one judicial district – so that the competence is established in the judge before which the complainant decided to present his claim.

This is because the normative portion contemplated in the second paragraph refers textually that in those cases, the District judge "before whom the claim is filed" is competent, so that the jurisdiction that one has over the places of execution is no longer a aspect to consider.

And it is considered that the literal interpretation of said legal statement is the one that should prevail, in attention to the pro persona principle, since in this way access to justice is facilitated for the plaintiff who chose to file their amparo claim in a certain locality and, In turn, the existence of jurisdictional conflicts is avoided, achieving a better effective and efficient operation of the human rights of hearing and access to prompt and expeditious justice, contained in articles 14, second paragraph and 17 of the Political Constitution of the United Mexican States and 8, numeral 1, of the American Convention on Human Rights, adopted in the city of San José, Costa Rica, on November 22, 1969.

However, it should be emphasized that this regulatory change only refers to the determination of the competent body, which will be the one before which the claim was filed, regardless of whether or not it has jurisdiction over the

different places where the act claimed can be carried out; However, as has already been explained in previous paragraphs of this execution, the legal assumption in which this consequence is actualized was not changed, namely, that the act claimed is executable and that execution can materialize in more than one judicial district, of so that the fundamental right to effective judicial protection is not disrupted.

And when the determination of jurisdiction must be adopted in the filing of the amparo claim, said requirements, as the requesting judge also indicated in a timely manner, can only be evaluated in light of what is specified in the amparo claim, since it is the only information available at that time.

Certainly, to determine jurisdiction, a basic rule consists in the precision, at least preliminary, of the challenged act, since it will be in accordance with this that it will be possible to establish which district judge corresponds to hear the claim.

It is said that said analysis is preliminary, because the opportune moment to specify the act claimed is when the constitutional sentence is issued, given that article 74, section I, of the Amparo Law, provides as a requirement of the ruling, the clear and precise of the act claimed.

The foregoing by virtue of the fact that during the course of the procedure, various circumstances may occur that modify the original meaning of the fundamental rights libel, either because the claim warrants some prevention, or because the complainant decides to extend it either on his own initiative or before the requirement of the judicial authority to notice, once the justified reports have been rendered, the participation of various authorities and, even, the existence of other acts closely related to the one initially claimed.

Despite the fact that said examination is preliminary, this does not imply that the judicial authority can interpret the amparo request in a restrictive manner, since it has been a reiterated jurisprudential criterion that the demand must be interpreted in its entirety, that is, considered as a whole.

Jurisprudence 2a./J is applicable. 55/98, of the Second Chamber of the Supreme Court of Justice of the Nation, which has the following headings and text:

CLAIMED ACTS. THE REQUEST FOR AMPARO SHOULD BE ENTIRELY STUDYED TO DETERMINE THEM.[The text of the criterion is transcribed].

Thus, for the purposes of determining the competence of the amparo authority, it is not enough to consider the chapter of the claim corresponding to the act claimed, but also the narrative of the facts and even the arguments expressed in the concepts of violation, since only from that examination comprehensive, the intention of the governed will be made clear when promoting the constitutional trial.

However, the comprehensive examination of the claim cannot go to the extreme of assuming that the amparo applicant hurts for acts that he has not claimed, against authorities that he does not mention either, since one of the fundamental principles of the amparo trial is the of 'instance of aggrieved party', which follows from what is established in articles 107, section I, of the Political Constitution of the United Mexican States and 6° of the Amparo Law.

> For this reason, the Court has been emphatic in pointing out that the comprehensive analysis of the application for amparo must be carried out with a sense of liberality and not restrictiveness, to accurately determine the intention of the petitioner and, in this way, harmonize the data and elements that make it up, but without changing its scope and content,

since the substitution of the complaint does not operate in the indication of the act claimed, not even in the case of criminal matters.

The following criteria of the High Court of the Country apply promptly:

REQUEST FOR PROTECTION. MUST BE INTERPRETED IN ITS INTEGRITY.[The text of the criterion is transcribed].

ACT CLAIMED, FAILURE TO INDICATE THE (SUPPLEMENTATION OF THE COMPLAINT IN CRIMINAL MATTERS).[The text of the criterion is transcribed].

This regardless of the other procedural events that take place during the course of the trial, as well as regardless of the result of the evidence that is collected during the constitutional procedure.

In this way, the legal scope of the act that constrains the complainant to request the protection of federal justice will be known, preliminarily; However, at the same time, the jurisdiction of the amparo judge is left safe to determine, in the constitutional sentence, what the claimed act is definitively (clear and precise fixation, according to the demand, clarification and/or extension), if it actually happened (certainty), if in fact it is an act of authority, to which it is attributable and if it is (or not) constitutional.

In short, the updating of the jurisdiction hypothesis regulated by article 37, second paragraph, of the Amparo Law requires that the act claimed be of an executable nature and that execution can materialize in more than one judicial district, aspects that in the filing of the application for amparo can only be evaluated in the light of what is stated in it, which, if satisfied, at least in a preliminary way, obliges the establishment of jurisdiction to hear the trial in the court before which the application was filed, regardless of whether or not said acts of execution have occurred or may or may not occur within its jurisdiction.

It now remains to rule on the last paragraph of article 37 of the Amparo Law, which is diametrically different from the last paragraph of precept 36 of the abrogated norm, since according to the last mentioned, territorial jurisdiction, in relation to acts of authority that lack material execution, was established in favor of the one in whose jurisdiction the responsible authority resides, while the new legislation clearly states that the competent judge will be the one in whose jurisdiction the claim was filed.

Indeed, when resolving the contradiction of thesis 389/2013, the First Chamber of the Supreme Court of Justice of the Nation was forceful in maintaining that article 37 of the Amparo Law in force must be interpreted literally, since the The legislator's intention was clearly embodied in said precept; hence, it had to be applied according to the letter contained, without using any systematic, teleological or logical method, or any other to unravel its meaning and scope, that is, to know the true intention of its creator.

The foregoing -he explained- is also justified in that, by applying the precept analyzed textually, the existence of jurisdictional conflicts is largely avoided,

> thus achieving a better effective and efficient operation of the human rights of expedited access to the administration of justice and hearing, which imply the possibility that the litigants can resort to judicial protection with the minimum of obstacles to be heard in their defense, always complying with the constitutional and legal requirements of origin.

In accordance with all these normative propositions, the present matter must be elucidated.

In the specific case, from the comprehensive analysis of the application for amparo, it is noted that the complainant claimed for herself and on behalf of her son, the forced disappearance of the latter, attributing this act contrary to human rights to the Secretary of the Navy of Mexico and the Specialized Prosecutor for the Investigation of Crimes of Forced Disappearance of Persons of the State Delegation of the Attorney General's Office in Nuevo Laredo Tamaulipas; In the same way, she claimed the omission of carrying out a proper investigation regarding those facts, in the investigation folder**********.

Likewise, from the narrative of the lawsuit, it is possible to find out that the first of these acts probably took place on February 17, 2018, apparently on Calle de********** from the city of Nuevo Laredo, Tamaulipas.

From the meticulous reading of the application for amparo, no other indication, data or proof can be seen that allows us to affirm, for the moment, that the execution of the acts claimed is being carried out in various judicial districts; it is not even designated as such by the complaining party.

The probability that the aforementioned act of authority could have continued its execution in different judicial districts is not ruled out in advance.

However, this eventuality has not been specifically indicated in the application for amparo, which is the only source of information that is legally available at this procedural stage.

Thus, with regard to said act of authority, the hypothesis of competence referred to in article 37, second paragraph, of the Law of Amparo cannot be considered updated, since the determination of competence cannot be based on the ignorance of the facts and, much less, in vague, future and uncertain suspicions that the claimed act has been carried out or could be carried out in more than one judicial district; On the contrary, the normative assumption of reference requires, as previously established in this final decision, that from the preliminary examination of the amparo claim it can be determined that, by its nature, the act claimed is executable and that there is a real possibility that that execution materializes in more than one judicial district.

What does not happen in the specific case because, it is insisted, from the comprehensive examination of the claim, no indication, indication, data or reference is found that allows us to affirm that the act claimed has materialized its execution in different judicial districts.

The thesis I.2o.P.60 P does not go unnoticed by this court[5], issued by the Second Collegiate Court in Criminal Matters of the First Circuit, invoked by the judge who declined in his ruling of June 12, 2018; criterion that literally indicates:

[5]Corresponding to the Tenth Period, with registration number: 2016555, published in the Federal Judicial Weekly Gazette, Book 53, April 2018, Volume III, page 2074.

> **FORCED DISAPPEARANCE. JURISDICTION TO HEAR THE DEMANDS PROMOTED BY THOSE FACTS, IS SUPPLIED IN FAVOR OF THE DISTRICT JUDGE WHO PREVIOUSLY KNOWN THE MATTER.**[The text of the criterion is transcribed].

However, the transcribed precedent is not mandatory for this body of constitutional control, in terms of what is established by article 217 of the Amparo Law; In addition to this, it is estimated that such decision was based on factual assumptions other than the one that concerns us now, since the review of the enforceable decision fell on the jurisdictional conflict12/2017 ofIndex of the Second Collegiate Court in Criminal Matters of the First Circuit, from which said thesis emanated, reveals that in the matter submitted to the authority of the homologous body, the complainant did request the search for his relative (the directly aggrieved) in official facilities of different territorial jurisdictions and even referred that the direct complainant had had multiple addresses; hypothesis that is far from what is narrated in the application for amparo that concerns us here.

Under this order of considerations, as well estimated by the requesting judge, in the case the jurisdiction hypothesis contained in the second paragraph of article 37 of the Amparo Law is not updated and, logically, this prevents jurisdiction from being established in favor of the body court in which the claim was filed.

On the contrary, from the comprehensive analysis of the application for amparo – it is repeated – the only information that can be obtained is that the act claimed as “forced disappearance” was carried out in the city of Nuevo Laredo, Tamaulipas; Therefore, in terms of the provisions of Article 37, first paragraph, of the Amparo Law, the judge who has jurisdiction in the place where the claimed act was carried out must be considered competent, in the case, the requested judge.

However, different consideration could be assumed in relation to the act of authority identified as the omission to carry out a serious investigation, in the investigation folder**********, regarding the forced disappearance of the complainant**********, during the integration of the investigation, since it is an act that does not require material execution, as a general rule, the hearing of the amparo claim filed against him would correspond to the district court before which the claim was filed, in the case, the applicant.

The Second Collegiate Court on Criminal and Administrative Matters of the Fifth Circuit reached a similar conclusion, when issuing the thesis V.2o.PA12 P[6], which is immediately transcribed:

> **JURISDICTION BY TERRITORY TO HEAR THE INDIRECT AMPARO TRIAL PROMOTED AGAINST THE OMISSIONS OF THE PUBLIC PROSECUTOR'S OFFICE IN THE INTEGRATION OF THE PRIOR INVESTIGATION. SINCE MATERIAL EXECUTION IS NOT REQUIRED, IT IS SUPPLIED IN FAVOR OF THE DISTRICT JUDGE IN WHOSE JURISDICTION THE DEMAND WAS FILED.**[The text of the criterion is transcribed].

The foregoing would result in each of the district judges involved in this jurisdictional conflict being legally competent to hear different portions of the

[6]Tenth Epoch, registration: 2016503, visible in the Federal Judicial Weekly Gazette, Book 52, March 2018, Volume IV, page 3340.

> constitutional claim. On the one hand, the requesting judge could have legal competence to resolve matters relating to the omission of integration of the investigation file and, on the other, the requested judge should process the claim in relation to the act of "forced disappearance".

However, for the moment, a determination in this sense is not admissible because it could cause the division of the continence of the cause, without having followed the necessary procedure to analyze whether or not it is necessary to preserve the unity of the procedure.

Indeed, when resolving the contradiction of thesis 113/2012, the Second Chamber of the Supreme Court of Justice of the Nation defined that the separation of trials is a procedural figure whose purpose is a better administration of justice through the separation of the litigation involved in the same amparo claim, through the formation of files that will originate various procedures or trials.

The need for this procedural figure arises, as established by the Chamber when retaking the considerations issued by the Plenary of the Court when failing the various contradiction of thesis 6/96, when in an amparo claim acts emanating from various trials, unrelated between yes, and said claim has been admitted by the district judge, or, such circumstance is noticed during the processing of the trial (until before the constitutional hearing is held), due to the justified reports rendered by the authority or authorities responsible, in which case, the separation of lawsuits could be initiated ex officio, a figure that, since it is not specifically regulated in the Amparo Law, must be contained in the jurisprudence.

In the last mentioned execution, the Plenary of the highest court also established that the separation process must be incidental, with suspension of the main proceeding and hearing of the parties prior to the issuance of the resolution that decrees the separation.

Finally, from the aforementioned execution, it is possible to note that only until the moment in which the separation of the proceedings has been decreed, the judge will be able to automatically provide the formation of the files that result in law, registering them and enlarging them with certified copies. that are necessary for their integration and once this is done, order the treatment that legally corresponds to each one; For example, if all of them fall within its competence, it will rule on them separately and if one of them falls within the competence of another body, the appropriate procedure will be given.

Based on the procedural postulates previously stated, it should be noted that the Amparo Law in force does not regulate matters relating to the separation of proceedings (it does not even provide for a special procedure for its accumulation); however, precept 66 of the law of the matter[7]establishes that issues that by their very nature merit such treatment and arise during the procedure may be substantiated in the incidental way, at the request of a party or ex officio.

In accordance with the foregoing, it is evident that for the same amparo claim to give rise to two different constitutional trials, followed before different

[7]"Article 66. In amparo proceedings, the issues expressly referred to in this Law and those that by their very nature merit such treatment and arise during the procedure will be substantiated incidentally, at the request of a party or ex officio. The court will determine, taking into account the circumstances of each case, if it is resolved outright, warrants a special pronouncement or if it is reserved to resolve it in the sentence."

> jurisdictional authorities, it is essential that prior to decreeing the separation of proceedings, the court attends to the incidental procedure indicated by the Plenary of the Supreme Court of Justice of the Nation and which essentially coincides with what is currently provided in article 67 of the Amparo Law.

The foregoing is so, because otherwise there is a risk of dividing the continence of the cause in a case not permitted by law, hence it is inevitable to follow the aforementioned incidental procedure, so that the parties are able to to assert before the judicial authority all the questions related to the need to preserve the unity of the procedure, or, on the contrary, the feasibility of the amparo claim giving life to two different constitutional trials.

In the case that concerns us today, it is not possible to affirm, for the moment, that the claimed acts may or may not be divided and studied separately or, on the contrary, find such a correlation between themselves that they merit their joint analysis and resolution in the same constitutional ruling.

This being the case, the competence that is established in this final judgment cannot dissociate the acts that up to now the complainant has claimed.

Consequently, this court considers that jurisdiction must be established in the district court that has jurisdiction to analyze the act of authority that does require material execution, as established by the extinct Third Chamber of the Supreme Court of Justice of the Nation when issuing thesis XVIII/92 which literally indicates:

JURISDICTION IN AN AMPARO TRIAL WHEN SEVERAL ACTS ARE CLAIMED, OF WHICH ONLY ONE HAS EXECUTION. IT CORRESPONDS TO THE DISTRICT JUDGE THAT HAS JURISDICTION WHERE SUCH EXECUTION TAKES PLACE. [The text of the criterion is transcribed].

It is important to highlight that this criterion establishes a general rule for a case not provided for in the law, which therefore does not find its solution in the regulations but, precisely, in the application of the thesis. The case not provided for in the law is, specifically, the hypothesis in which different acts are claimed, some of which may have material execution and others not. As it happens here, for this reason the solution of the thesis reproduced above is considered applicable.

However, no less transcendental is the jurisprudence 22/2013[8]issued by the First Chamber of the Supreme Court of Justice of the Nation, which is immediately inserted:

JURISDICTION TO HEAR THE INDIRECT AMPARO TRIAL PROMOTED AGAINST THE EXEQUENDO'S ORDER EXECUTED THROUGH A WARRANTY IN A DISTRICT DIFFERENT FROM THE DISTRICT IN WHICH THE PROCESS TAKES PLACE, AND EVERYTHING ACTED IN THE COMMERCIAL EXECUTIVE TRIAL WHICH ENDED WITH EXECUTIVE SENTENCE. IT IS SUPPLIED IN FAVOR OF THE JUDGE WHO PREVENTED. [The text of the criterion is transcribed].

A first reading of the jurisprudence transcribed above could lead to the conclusion that in the case at hand here, jurisdiction should rest with the court that heard the matter.

---

[8]Published in the Judicial Weekly of the Federation and its Gazette, Tenth Period, registration 2003502, Book XX, May 2013, Volume 1, p. 293.

However, it is considered that said criterion is not applicable for the following reasons:

1. From the analysis of the enforcement from which it derives, namely, the contradiction of thesis 13/2012, it is obtained that in the matters that gave rise to the conflict, the claimed acts were issued within commercial procedures, specifically, the complainants indicated as Acts claimed derived from the respective commercial executive trials, the summons by exhortation (act that requires execution) and all the processing of the processes that culminated with the issuance of individual enforceable sentences against the complainants there; which is far from the matter in which this judgment is pronounced, namely, criminal.

2. In addition, the acts that were considered did not require execution in those precedents, were of a positive nature, namely: the order that returns the completed or uncompleted warrant, the order that orders the parties to be seen with the result of the warrant, the order that the claim has been answered or declares that the term for it to be answered has elapsed, the order that opens the trial on trial or decrees that it is not appropriate to open such a period, the order that cites for sentencing, the order that declares the sentence executed , etc; On the other hand, in the case at hand, an act of a negative nature is claimed (omission to integrate a preliminary investigation). Thus, although all the aforementioned acts lack execution, their nature and analysis is different.

3. Both the heading of jurisprudence and the content of the relative thesis, as well as the enforceable one from which they emanate, reveal that the dignified pronouncement was issued only in relation to the specific case that was analyzed there, that is, a specific rule was established or specific exception, which, it is insisted, did not cover acts in criminal matters or those of a negative nature (omissions).

4. In the cases that gave rise to the contradiction, the plaintiffs chose to present their claim before the district judge that coincided with the residence of the responsible authorizing authority (where the acts that did not require execution were issued), which was considered valid by the ease of access to the probative material and the forecast to avoid that through a possible procedural fraud the complainant had been summoned (act of execution) in a place where he was not really; On the other hand, in the case at hand, both the acts that do not require physical execution (omission to integrate the investigation folder), as well as the acts that did require it (forced disappearance) were issued and occurred in the same jurisdiction, namely , Nuevo Laredo, Tamaulipas,

For these reasons, it is estimated that the problem particularly analyzed - the possibility that two district judges have jurisdiction to hear the request for amparo, one in relation to acts of authority called "forced disappearance" that do require material execution and another with respect to the "omission" to integrate the investigation folder that does not warrant any execution -, which cannot be solved in the Amparo Law, must be solved by applying the general criteria contained in thesis XVIII/92 of the Third Chamber of the Supreme Court of Justice of the Nation and not the specific rule established in jurisprudence 22/2013 issued by the First Chamber of that high court, since, as has been seen, the hypothesis specifically studied in this resolution bears no similarity to the case analyzed in the last execution cited.

> Given this disparity, jurisprudence could not be applied because, it is insisted, there is already a general criterion – the isolated thesis – that precisely resolves the cases not included in the specific rule.
>
> As a corollary to the foregoing, based on the provisions of articles 37, first paragraph, and 48 of the Amparo Law, this collegiate court determines that the Third District Court in the State of Tamaulipas, based in Nuevo Laredo, is legally competent to take cognizance of the request for amparo filed by**********for yourself and on behalf of your child**********.
>
> The foregoing, on the understanding that the conclusion adopted does not prejudge the competence that could correspond to different judges when collecting all the justified reports, in which different information could be obtained from the responsible authorities, thus concluding it, since – it is insisted – the guidelines that are taken into consideration in the present determination to resolve the jurisdiction of the amparo court, are appreciated from the claim document."

ROOM. Existence of contradiction. In the first place, it must be determined whether there is a contradiction of criteria in the case, since only in such a case is it feasible for this Chamber to issue a ruling on the merits of this complaint.

The Full Court, upon resolving, unanimously with ten votes, in a session on April 30, 2009, the contradiction of thesis 36/2007-PL, determined that the provisions of article 107, section XIII, of the Constitution Policy of the United Mexican States, it is noted that the existence of the contradiction of criteria is conditioned to the fact that the Chambers of the Supreme Court of Justice of the Nation or the Collegiate Circuit Courts, in the sentences they pronounce hold "contradictory theses", understanding by "thesis" the criterion adopted by the judge through logical-legal arguments to justify his decision in a dispute,which determines that the contradiction of thesis is updated when two or more terminal courts adopt divergent legal criteria on the same point of law.

It is necessary to specify that the existence of a contradiction of thesis derives from the discrepancy of legal criteria, that is, from the opposition in the solution of legal issues that are extracted from matters that can validly be different in their factual issues, which is consistent. with the purpose established both in the General Constitution of the Republic and

in the Amparo Law for thesis contradictions, since it allows them to fulfill the purpose for which they were created.

The existence of the thesis contradiction must be conditioned to the fact that the Chambers of this Court or the Collegiate Circuit Courts in the sentences that pronounce:

a) Hold contradictory theses, understanding by 'thesis' the criterion adopted by the judge through logical-legal arguments to justify his decision in a dispute; and,

b) That two or more terminal courts adopt differing legal criteria on the same point of law, regardless of the fact that the factual issues that give rise to it are not exactly the same.

The purpose of said determination is to define legal points that give legal security to the governed, since for this the legal figure of the contradiction of thesis was created from the Political Constitution of the United Mexican States.

In this regard, the Full Court issued jurisprudence P./J.72/2010, whose heading is: “CONTRADICTION OF THESIS. IT EXISTS WHEN THE CHAMBERS OF THE NATIONAL SUPREME COURT OF JUSTICE OR THE COLLEGIATE CIRCUIT COURTS ADOPT DIFFERING LEGAL CRITERIA IN THEIR JUDGMENTS ON THE SAME POINT OF LAW, REGARDLESS OF WHETHER THE FACTUAL ISSUES SURROUNDING IT ARE NOT EXACTLY THE SAME.”[9]

[9]since judicial practice demonstrates the difficulty of having two or more identical issues, both in law and in fact, hence considering that the contradiction is only updated when the issues are exactly the same constitutes a rigorous criterion that prevents resolve the discrepancy in legal criteria, which means that the judicial effort is focused on detecting the differences between the issues and not on resolving the discrepancy. In addition, the factual issues that sometimes surround the legal problem with respect to which opposing views are held and, consequently, are denounced as contradictory, are generally secondary or accidental issues and, therefore, do not affect the nature of the legal problems resolved. That is why this High Court interrupted the jurisprudence P./J. 26/2001 under the heading: 'CONTRADICTION OF THESIS OF COLLEGIATE COURTS OF CIRCUIT. REQUIREMENTS FOR ITS EXISTENCE.', when resolving the contradiction of thesis 36/2007-PL, since by establishing that the contradiction is updated whenever 'when resolving legal transactions essentially the same legal issues are examined and divergent legal positions or criteria are adopted' the study of the legal subject matter of the contradiction was prevented based on factual 'differences'

> In the specific case, this First Chamber of the Supreme Court of Justice of the Nation warns that the contradiction of criteria is updated, because the collegiate courts analyzed the same legal problem, to which they gave a solution in the opposite way.

It is explained. On the one hand, the Second Collegiate Court in Criminal Matters of the First Circuit, when resolving the conflictcompetence 12/2017,of its index, determined that the competent court to hear an amparo claim in which the forced disappearance of persons is indicated as the act claimed, is the one before which the corresponding brief is filed.

While, on the other hand, the First Collegiate Court on Criminal Matters of the Sixteenth Circuit, when resolving jurisdictional conflict 6/2018, ruled that, as it was an application for amparo filed against the forced disappearance of a person, in terms of article 37, first paragraph, of the Amparo Law, it must be consideredcompetent to the judge who has jurisdiction in the place where the act claimed was carried out.

As noted in the previous review, there is a contradiction between the criteria supported by the contending courts, which is reduced to determining which district judge is competent, by reason of territory, to hear the indirect amparo proceeding filed against of the forced disappearance of persons.

FIFTH. Background study. This First Chamber of the Supreme Court of

---

that from the strictly legal point of view should not hinder the substantive analysis of the contradiction raised, which is contrary to the logic of the established jurisprudence system in the Amparo Law, Because by subjecting its existence to compliance with the indicated requirement, the number of contradictions that are resolved to the detriment of legal certainty that must be safeguarded against clearly opposed legal criteria decreases. From the foregoing it follows that the existence of a contradiction of thesis derives from the discrepancy of legal criteria, that is, from the opposition in the solution of legal issues that are extracted from matters that can validly be different in their factual issues, which It is consistent with the purpose established both in the General Constitution of the Republic and in the Amparo Law for the contradictions of theses, since it allows them to fulfill the purpose for which they were created and not be distorted by looking for differences in detail that prevent their resolution.

Justice of the Nation considers that the criterion supported by this High Court should prevail as jurisprudence, in accordance with the considerations that are based on the analysis of the following issues: a) the legal nature of the forced disappearance of persons; b) the amparo trial as one of the mechanisms to combat this crime against humanity; c) the appropriate rules of competence to attend to the instruction of this special means of constitutional control.

a. Nature of the forced disappearance.

The experience of Latin American countries shows that the forced disappearance of people is a technique of terror. It is a factual situation, typified by international law, from which the victims do not disappear voluntarily or by accident. It is a strategy that has traditionally been used by the armed forces, security forces, intelligence services or paramilitary groups that act with the cooperation, tolerance or acquiescence of the State. In some countries, it has even been considered a "national security" strategy.[10]

In this spirit of struggle against enforced disappearances, the Mexican State has signed and ratified the International Convention for the Protection of All Persons against Enforced Disappearances, adopted by the United Nations General Assembly on December 20, 2000. six, and the Inter-American Convention on Forced Disappearance of Persons, adopted in the City of Belém, Brazil, on June 9, 1994.[11]

---

[10]Forced disappearance in Mexico: A look from the organizations of the United Nations System, 1st Edition, November 2015, Mexico: Co-edition of the UN-DH Mexico and the CNDH, pages 8 and 9.

[11]At the national level, an integral fight against the practice in question has been advocated, as recognized in article 73, section XXI, subparagraph a), of the General Constitution, which establishes: "Article 73.- Congress has the power: (….) XXI.- To issue: a) The general laws that establish, as a minimum, the criminal types and their sanctions in matters of kidnapping, forced disappearance of persons, other forms of deprivation of liberty contrary to the law, trafficking of people, torture and other cruel, inhuman or degrading treatment or punishment, as well as electoral.
The general laws will also contemplate the distribution of competences and the forms of coordination between the Federation, the federative entities and the Municipalities; (…)"
Likewise, the General Law on Forced Disappearance of Persons, Disappearance committed by Individuals and the National System for the Search of Persons, published in the Official Gazette of the Federation on November 17, two thousand and seventeen, which in its Article 2 provides: "Article 2. The purpose of this Law is: (…) II. Establish the criminal types in the matter of forced disappearance

Article II of the Inter-American Convention on Forced Disappearance of Persons, adopted in the City of Belém, Brazil, on June 9, 1994, defines forced disappearance as the deprivation of liberty of one or more persons, any whatever its form, committed by agents of the State, or by persons or groups of persons acting with the authorization, support, or acquiescence of the State, followed by the lack of information or the refusal to acknowledge said deprivation of liberty or of inform about the whereabouts of the person, thereby preventing the exercise of legal remedies and the pertinent procedural guarantees.[12]

In this regard, the Inter-American Court of Human Rights has specified that this crime constitutes a continuous, multiple and complex violation of human rights; Therefore, it must be understood and addressed in an integral way.[13].

Likewise, article 17.1 of the Declaration on the protection of all persons against forced disappearances, approved by the General Assembly of the United Nations Organization in its resolution 47/133 of December 18, 1992, recognizes that any act of forced disappearance will be considered a permanent crime as long as its perpetrators continue to hide the fate and whereabouts of the disappeared person and as long as the facts have not been clarified.[14]

---

of persons and disappearance committed by individuals, as well as other related crimes and their sanctions; (…)"

[12]"Article II. For the purposes of this Convention, forced disappearance is considered to be the deprivation of liberty of one or more persons, whatever its form, committed by agents of the State or by persons or groups of persons acting with the authorization, support, or the acquiescence of the State, followed by the lack of information or the refusal to acknowledge said deprivation of liberty or to inform about the whereabouts of the person, thereby preventing the exercise of legal remedies and the pertinent procedural guarantees." This definition has been replicated by the General Law on Forced Disappearance of Persons, Disappearance Committed by Individuals and the National System for the Search for Persons, whose article 27 provides: "Article 27. Commits the crime of forced disappearance of persons,

[13]Case of Velázquez Rodríguez v. Honduras. Background. Judgment of July 29, 1988.

[14]"Article 17

1. Any act of forced disappearance will be considered a permanent crime as long as its perpetrators continue to hide the fate and whereabouts of the disappeared person and as long as the facts have not been clarified."

For its part, at the national level, Article 13 of the General Law on Forced Disappearance of Persons, Disappearance Committed by Individuals and the National System for the Search for Persons specifies that the crime of forced disappearance of persons has the nature of permanent or continuous, as long as the fate and whereabouts of the disappeared person have not been determined or their remains have not been located and fully identified.[15]

In accordance with the foregoing, this High Court has been clear in defining that this crime has a permanent or continuous nature, since although the crime is consummated when the active subject deprives one or more persons of their liberty, with the authorization, support, or acquiescence of the State, followed by the lack of information about their whereabouts, said consummation is prolonged in time until the taxpayers appear or their destination is established.

The previous assertion was reflected in the jurisprudential criterion P./J. 48/2004, issued by the Full Court, under the heading: FORCED DISAPPEARANCE OF PERSONS. THIS CRIME IS OF A PERMANENT OR CONTINUING NATURE."[16].

From what has been previously stated, it is possible to conclude that forced disappearance has a composition that goes beyond the act of

---

[15]"SECOND TITLE
OF CRIMES AND ADMINISTRATIVE RESPONSIBILITIES
FIRST CHAPTER
GENERAL DISPOSITION
Article 13. The crimes of Forced Disappearance of Persons and Disappearance committed by Individuals will be prosecuted ex officio and are permanent or continuous, as long as the fate and whereabouts of the Disappeared Person have not been determined or their remains have not been located and fully identified.
(…)"

[16]Epoch: Ninth Epoch. Registration: 181147. Instance: Plenary. Type of Thesis: Jurisprudence. Source: Judicial Weekly of the Federation and its Gazette. Volume XX, July 2004. Subject(s): Criminal. Thesis: P./J. 48/2004. Page: 968. The text of which is the following: "The aforementioned crime contemplated in Article II of the Inter-American Convention on Forced Disappearance of Persons, adopted in the city of Belém, Brazil, on June 9, 1994 (coincident with the provisions of articles 215-A of the Federal Penal Code and 168 of the Penal Code of the Federal District), in accordance with Mexican positive law, it is of a permanent or continuous nature, since although the offense is consummated when the subject asset deprives one or more persons of liberty, with the authorization, support or acquiescence of the State,

deprivation of liberty of one or more persons by a state agent or by a person acting with the latter's authorization, since it transcends over time through the lack of information or its concealment, to acknowledge said deprivation of liberty or to report on the whereabouts of the victim[17].

b. The indirect amparo trial against acts constituting the forced disappearance of persons.

In order to combat the acts constituting forced disappearance, the victims of this serious violation of human rights, as well as their families, have within their reach, as a jurisdictional mechanism, the right to resort to the indirect amparo trial, in terms of articles 15, 17, 20, 35 and 107, section II, of the Amparo Law.[18]

---

[17]In similar terms, the Inter-American Court of Human Rights has recognized that the concurrent and constitutive elements of forced disappearance are: i) deprivation of liberty; ii) the direct intervention of state agents or by their acquiescence and; iii) the refusal to acknowledge the detention and reveal the fate or whereabouts of the victim. Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia. Background. Reparations and Costs. Judgment of September 1, 2010, among others.

[18]"Article 15. In the case of acts involving the risk of deprivation of life, attacks on personal liberty outside of procedure, solitary confinement, deportation or expulsion, proscription or exile, extradition, forced disappearance of persons or any of those prohibited by the Article 22 of the Political Constitution of the United Mexican States, as well as the forced incorporation into the national Army, Navy or Air Force, and the aggrieved party is unable to promote the amparo, any other person may do so on his behalf, even if he is a minor. age.

In these cases, the amparo court will order the suspension of the acts claimed, and will dictate all the necessary measures to achieve the appearance of the aggrieved party.

Once the appearance is achieved, the aggrieved party will be required to ratify the amparo claim within a term of three days. If the latter ratifies it by himself or through his representative, the trial will be processed; Otherwise, the claim will be deemed not filed and the orders issued will be without effect.

If, despite the measures taken by the amparo court, the aggrieved party is not able to appear, it will resolve the final suspension, order the suspension of the proceeding in principle, and the facts will be brought to the knowledge of the Federal Public Ministry. In the event that the latter is the responsible authority, the Attorney General of the Republic will be notified. When there is an express request from the National Human Rights Commission, a certified copy of the proceedings in these cases will be sent.

After a year has elapsed without anyone appearing in person at the trial, the claim will be deemed not to have been filed.

When, due to the circumstances of the case or it is stated by the person filing the claim instead of the complainant, it is a possible commission of the crime of forced disappearance of persons, the judge will have a term of no more than twenty-four hours to process the amparo , dictate the suspension of the claimed acts, and request from the corresponding authorities all the information that may be conducive to the location and release of the probable victim. Under this assumption, no authority may determine that a specific period elapses for the aggrieved party to appear, nor may the authorities refuse to carry out the proceedings that are requested or ordered by them on the grounds that there are legal deadlines to consider the disappearance of a person. person.

Article 17. The deadline for filing the amparo claim is fifteen days, except:

[…]

IV. When the act claimed involves the danger of deprivation of life, attacks on personal liberty outside of the procedure, solitary confinement, deportation or expulsion, proscription or exile, forced disappearance of persons or any of those prohibited by article 22 of the Political Constitution of the

In accordance with said precepts, district judges and unitary circuit courts are competent to hear indirect amparo proceedings that are promoted against acts or omissions that come from authorities other than judicial, administrative or labor courts –among them, forced disappearance.[19]

The victim of acts presumably constituting forced disappearance, or any other person on his behalf, even if he is a minor, may file an application for amparo, at any time and hour, either in writing, by appearance, or by electronic means.

The hearing judge has a term of no more than twenty-four hours to process the amparo claim, order the suspension of the claimed acts, and request from the corresponding authorities all the information that could be conducive to the location and release of the probable victim. .[20]

United Mexican States, as well as the forced incorporation into the national Army, Navy or Air Force, in which he may appear at any time.

Article 20. The trial can be promoted in writing, by appearance or by electronic means on any day and time, if it is about acts that imply danger of deprivation of life, attacks on personal liberty outside of procedure, solitary confinement, deportation or expulsion, proscription or exile, extradition, forced disappearance of persons or any of those prohibited by article 22 of the Political Constitution of the United Mexican States, as well as forced incorporation into the national Army, Navy or Air Force. In these cases, any time will be available to process the suspension incident and issue urgent measures so that the resolution in which it has been granted is complied with.

For the purposes of this provision, the heads and managers of the public communications offices will be obliged to receive and transmit, at no cost to the interested parties, the messages in which protection is demanded for any of the acts listed, as well as the resolutions and official letters issued by the authorities that are aware of the suspension, outside office hours and despite the existence of provisions to the contrary by administrative authorities.

Article 35. District courts and unitary circuit courts are competent to hear indirect amparo proceedings.

The authorities of the common order will also be so when they act in aid of the courts of protection.

Article 107. The indirect protection proceeds:

[…]

II. Against acts or omissions that come from authorities other than judicial, administrative or labor courts; (…)"

[19]It does not go unnoticed that in terms of article 159 of the Amparo Law, it is feasible to go to a first instance judge to promote the amparo trial against the forced disappearance of a person, however, it will not elaborate on its competence for not be the subject of this contradiction.

[20]In this regard, the Declaration on the protection of all persons against forced disappearances, approved by the General Assembly of the United Nations Organization in its resolution 47/133 of December 18, 1992, which provides in its article 9 the following: "1. The right to prompt and effective judicial recourse, as a means to determine the whereabouts of persons deprived of liberty or their state of health or to identify the authority that ordered the deprivation of liberty or made it effective, is necessary to prevent disappearances forced in all circumstances, including those contemplated in article 7 above. 2. Within the framework of this remedy, the competent national authorities will have access to all places where persons deprived of liberty are located, as well as any other place where there is reason to believe that the missing persons may be found. 3. Any other competent authority empowered by the legislation of the State or by any other international legal instrument to which the State is a party may also have access to those places."

From the aforementioned precepts, it can be inferred that the District judge who receives the amparo request must start the search for the direct victim without further delay, since, on the one hand, the amparo can be promoted any day and time, through the means provided in the Amparo Law or with the support of the respective public communications offices and has the obligation to dictate all the necessary measures to achieve the appearance of the aggrieved party.

It is, therefore, a summary process, because the substantiation times are shortened in various ways, on the basis that the violation of human rights that is being fought is especially serious, involves a human drama and requires urgent intervention.

In this regard, the content of article 13 of the Declaration on the Protection of All Persons against Enforced Disappearances, approved by the General Assembly of the United Nations Organization in its resolution 47/133 of December 18, 1900, is guiding. ninety-two, which due to its relevance is transcribed below:

> "**Article 13.**
> **1. The States shall ensure that any person who has the information or has a legitimate interest and maintains that a person has been subjected to forced disappearance, has the right to report the facts to a competent and independent State authority, which shall immediately proceed to do so. a thorough and impartial investigation. Whenever there are grounds to believe that a person has been subjected to enforced disappearance, the State shall promptly refer the matter to said authority for it to initiate an investigation, even if no formal complaint has been filed. This investigation may not be limited or hindered in any way.**
> 2. States shall ensure that the competent authority has the necessary powers and resources to conduct the investigation, including the necessary powers to compel the appearance of witnesses and the production of relevant evidence, as well as to proceed without delay to visit places.
> 3. Provisions will be made so that all those involved in the investigation, including the complainant, attorney, witnesses and those conducting the investigation, are protected from any mistreatment and any act of intimidation or retaliation.

> 4. The results of the investigation will be communicated to all interested persons, at their request, unless this hinders the investigation of an ongoing criminal case.
> 5. Provisions will be made to ensure that any ill-treatment, any act of intimidation or reprisal, as well as any form of interference, at the time of filing a complaint or during the investigation procedure, are punished accordingly.
> 6. It must be possible to carry out an investigation, in accordance with the modalities described in the preceding paragraphs, as long as the fate of the victim of an enforced disappearance has not been clarified."[21]

In addition, the Recommendations on the Disappearance of Persons made to Mexico by International Human Rights Organizations indicate that the search procedure for disappeared persons must be carried out immediately and without undue delay, since the first seventy-two hours are decisive for obtain success in localization. For this, different search scenarios must be foreseen, both for life and death, and allow and obtain entry to any public entity, including military and police installations.[22]

In this order of ideas, the Law of Amparo provides that no authority can demand that a certain period of time elapses for the aggrieved party to appear, nor can the authorities refuse to carry out the proceedings that are requested or ordered by them on the grounds that there are legal deadlines to consider the disappearance of a person.

All the aforementioned measures are part of the block of sub-rights that make up the right to know the truth that assists indirect victims of the crime of forced disappearance of persons and the right of the direct victim to habeas corpus.[23]

In this way, the doctrine considers that the main obligations of the State in relation to the right of access to the truth are, above all, procedural, and include the obligation to investigate until the fate and whereabouts of the person are clarified, the obligation to communicate the results of the investigations to the interested parties, to have full access to the files

[21]https://www.acnur.org/fileadmin/Documentos/BDL/2002/1428.pdf
[22]Forced disappearance in Mexico (….), Op. Cit., page 158.
[23]Ibid, pages 55 and 116.

and, in general, to take all the measures deemed necessary to find a person.[24]In correlation, the State itself has the obligation to provide full access to the information available to allow the search for the disappeared persons.[25]

c. Jurisdiction by reason of territory to hear the request for amparo against acts constituting forced disappearance.

In order to determine which court is competent by reason of territory to hear the amparo claim filed against the forced disappearance of one or more persons, it is necessary to consider article 37 of the Amparo Law, which distinguishes three rules basic:

1. The competent judge is the one who has jurisdiction in the place where the act that is claimed must be carried out, tries to be carried out, is being carried out or has been carried out.

2. The competent judge is the one before whom the application for amparo is filed, if the act claimed can be carried out in more than one district or has begun to be carried out in one of them and continues to be carried out in another.

3. The competent judge is the one in whose jurisdiction the claim has been filed, when the claimed act does not require material execution.

In order to determine which of these rules is applicable to the case at hand, it is important to reiterate that forced disappearance is a crime of a continuous nature, consisting of the following elements:

i. The deprivation of liberty.

[24]Ibid, page 117.
[25]Ibid, page 118.

ii. The direct intervention of state agents or by their acquiescence.

iii. The refusal to acknowledge the arrest or reveal the fate or whereabouts of the person concerned.

From the foregoing, it can be deduced that the execution of the act claimed that we are dealing with is not carried out at a single moment, nor can it be understood exclusively through the deprivation of liberty of one or more persons, but rather that it continues to be carried out until as long as have the necessary information to determine the whereabouts of the victim.

In this sense, both national and international instruments coincide in the sense that the crime of forced disappearance continues to be carried out until the fate and whereabouts of the disappeared person have not been determined.

However, given that forced disappearance is characterized by the lack of information about the whereabouts of the person, it is not feasible to require the complainant to specify with complete certainty who the responsible authorities are or the place where the crime is being carried out. That is, taking into account the nature and elements that make up the crime under study, it is concluded that at the time of filing the amparo claim it is not possible to determine with complete certainty which are the responsible authorities, nor to specify exactly where they are. executing the acts constituting the crime.

Although the person filing the request for amparo could have indications of said elements, the truth is that this must be concatenated with the fact that the act claimed is likely to materialize in various jurisdictions and by different authorities, so his statement does not it is enough to be able to conclude that the corresponding investigations will conclude in the sense that the act was only carried out in a single place or by a single authority.

Given this circumstance, since the claimed act can be executed in more than one district, or can even begin to be executed in one of them and continue to be executed in another, this First Chamber of the Supreme Court of Justice of the Nation determines that, in terms of article 37, section II, of the Law on Amparo, the judge before whom the respective claim is filed is competent by reason of territory to hear the amparo lawsuit filed against facts presumably constituting forced disappearance.

The conclusion reached in this resolution makes it easier for the relatives or other people close to the victim of forced disappearance to have quick and efficient access to an effective judicial remedy.

Indeed, in article 24 of the International Convention for the Protection of All Persons against Enforced Disappearances[26], it is established that "victim" must be understood as the disappeared person, as well as any natural person who has suffered direct harm as a result of an enforced disappearance.

In this sense, according to the provision in question, each victim has the

---

[26]Article 24.
1. For the purposes of this Convention, "victim" shall be understood as the disappeared person and any natural person who has suffered direct harm as a result of an enforced disappearance.
2. Each victim has the right to know the truth about the circumstances of the forced disappearance, the evolution and results of the investigation, and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.
3. Each State Party shall adopt all appropriate measures for the search, location, and release of disappeared persons and, in the event of death, for the search, respect, and restitution of their remains.
4. The States Parties shall ensure that their legal system guarantees the victim of an enforced disappearance the right to reparation and prompt, fair and adequate compensation.
5. The right to reparation referred to in paragraph 4 of this article includes all material and moral damages and, where appropriate, other forms of reparation such as:
a) Restitution;
b) Rehabilitation;
c) Satisfaction; including restoration of dignity and reputation;
d) The guarantees of non-repetition.
6. Without prejudice to the obligation to continue with the investigation until the fate of the disappeared person is established, each State Party shall adopt the appropriate provisions in relation to the legal situation of disappeared persons whose fate has not been clarified and of their relatives, in fields such as social protection, economic issues, family law and property rights.
7. Each State Party shall guarantee the right to freely form and participate in organizations and associations whose purpose is to help establish the circumstances of forced disappearances and the fate of the disappeared persons, as well as assistance to the victims of forced disappearances.

right to know the truth about the circumstances of the forced disappearance, the evolution and results of the investigation, and the fate of the disappeared person. Therefore, all States must take all appropriate measures to safeguard this right.

In accordance with the above, we can distinguish two categories of victim: direct and indirect. The direct victim in this crime is the disappeared person, while the indirect victim is any person who suffers immediate harm as a result of the forced disappearance of another person.

In this same sense, the Inter-American Court of Human Rights established in the judgment corresponding to the case of Blake vs. Guatemala[27]that, in accordance with article 8, numeral 1, of the American Convention on Human Rights[28], the next of kin of Nicholas Blake had the right to have his disappearance and death effectively investigated by the state authorities, a process to be followed against those responsible, if applicable, the pertinent sanctions to be imposed, as well as compensation for damages that family members suffered.

---

[27]Case Blake vs. Guatemala. Background. Judgment of January 24, 1998.

[28]Article 8. Judicial Guarantees.

1. Every person has the right to be heard with due guarantees and within a reasonable time, by an independent and impartial competent judge or court previously established by law, in the substantiation of any criminal accusation made against him, or for the determination of their rights and obligations of a civil, labor, fiscal or any other nature.
2. Every person charged with a crime has the right to be presumed innocent until their guilt is legally established. During the process, everyone has the right, in full equality, to the following minimum guarantees:
a) The right of the accused to be assisted free of charge by the translator or interpreter, if he does not understand or does not speak the language of the court or tribunal;
b) previous and detailed communication to the defendant of the accusation formulated;
c) Concession to the defendant of adequate time and means to prepare his defense;
d) the right of the accused to defend himself personally or to be assisted by a lawyer of his choice or to communicate freely and privately with his lawyer;
e) inalienable right to be assisted by a defense attorney provided by the State, paid or not according to domestic legislation, if the accused does not defend himself or appoint a defense attorney within the period established by law;
f) right of the defense to question the witnesses present in court and to obtain the appearance, as witnesses or experts, of other persons who can shed light on the facts;
g) right not to be forced to testify against oneself or to declare guilty, and
h) right to appeal the ruling before a higher court or judge.
3. The defendant's confession is only valid if it is made without coercion of any kind.
4. The defendant acquitted by a final judgment may not be subjected to a new trial for the same facts.
5. Criminal proceedings must be public, except for what is necessary to preserve the interests of justice.

In addition to the above, at national headquarters, in article 4 of the General Law on Victims[29], it is specified that direct victims are those natural persons who have suffered any economic, physical, mental, emotional damage or impairment, or in general any endangerment or injury to their legal assets or rights as a result of the commission of a crime or violations of their human rights recognized in the Political Constitution of the United Mexican States and in the International Treaties to which the Mexican State is a party.

On the other hand, indirect victims are identified as relatives or those natural persons in charge of the direct victim who have an immediate relationship with her and; Potential victims, such as natural persons whose physical integrity or rights are endangered by providing assistance to the victim, either by preventing or stopping the violation of rights or the commission of a crime.

Said character of victim, in terms of the legislation in question, is acquired with the accreditation of the damage or impairment of the rights in the terms established in the General Law of Victims, regardless of whether the person responsible is identified, apprehended, or sentenced. of the damage or that the victim participates in any judicial or administrative proceeding.

In view of the foregoing, it is possible to deduce that the conclusion

[29]Article 4. Direct victims will be called those individuals who have suffered any economic, physical, mental, emotional damage or impairment, or in general any endangerment or injury to their legal assets or rights as a result of the commission of a crime or violations to their human rights recognized in the Constitution and in the International Treaties to which the Mexican State is a Party.
Indirect victims are the relatives or those natural persons in charge of the direct victim who have an immediate relationship with her.
Potential victims are natural persons whose physical integrity or rights are endangered by providing assistance to the victim, either by preventing or stopping the violation of rights or the commission of a crime.
The quality of victims is acquired with the accreditation of the damage or impairment of rights in the terms established in this Law, regardless of whether the person responsible for the damage is identified, apprehended, or sentenced or that the victim participates in any judicial proceeding. or administrative.
Victims are the groups, communities or social organizations that have been affected in their rights, interests or collective legal assets as a result of the commission of a crime or the violation of rights.

reached in this resolution results in a greater benefit for the indirect victims of the forced disappearance that is claimed in an indirect amparo lawsuit, as well as in a greater protection of their rights. recognized both nationally and internationally, since it ensures that the person filing the indirect amparo claim has easier access to the amparo trial and can participate immediately in it, in such a way that they can personally access the file, obtain copies, air your opinion, receive direct information, provide evidence, formulate arguments and, in general, enforce your rights effectively.[30]

The criterion that is sustained in the present executive order coincides, in addition, with the recommendations that international organizations have issued regarding the forced disappearance of persons, in particular, that the amparo legislation consider a broad concept of victim and that it not establish burdensome requirements. on circumstances such as the identification of the place of detention or the determination of the responsible authority.[31]

It does not go unnoticed that, due to the very nature of forced disappearance, the judge who hears the amparo claim, in the exercise of his investigative functions and in accordance with the protocols he decides to apply, must collect various means of evidence or carry out actions in places other than their place of residence and that, even, they must inform the competent administrative authorities in relation to the disappearance of the complainant, such as, for example, the National Search Commission provided for in article 50 of the General Law on Forced Disappearance of Persons, Disappearance committed by Individuals and the National System for the Search of Persons.[32]

---

[30]Forced disappearance in Mexico (….), Op. Cit., page 166.
[31]**ibid**, page 152.
[32]"Article 50. The National Search Commission is a decentralized administrative body of the Ministry of the Interior, which determines, executes and follows up on the search actions for Missing and Unlocated Persons, throughout the national territory, in accordance with the provisions in this Law. Its purpose is to promote the efforts of linking, operation, management, evaluation and follow-up of the actions between authorities that participate in the search, location and identification of people.

> In this sense, there is still a duty of assistance in charge of all government bodies so that the competent judge can obtain the necessary

information to determine the whereabouts of the victim of the aforementioned crime. Indeed, the Inter-American Court of Human Rights has been emphatic in pointing out that, although in certain circumstances it may be difficult to investigate facts that violate a person's rights, the obligation to investigate these facts must have meaning and be assumed. by the State as its own legal duty, and not as a mere management of private interests that depends exclusively on the procedural initiative of the victim or their relatives, or on the private contribution of evidence, but rather that the public authority must effectively seek the truth.[33]

Thus, in order to safeguard the rights of the victims, both direct and indirect, in cases of forced disappearance, all the authorities are bound to collaborate promptly and expeditiously with the judge before whom the amparo proceeding was filed. indirectly, using all necessary means to promptly carry out those actions and investigations that are required to clarify the fate of the victims,[34]for this purpose, using traditional or official electronic media and, even, through the respective judicial warning, to achieve, where appropriate, the appearance of the complainant before the judicial authority, as an authentic habeas corpus.

The factual consequence of the criterion that is sustained in the present executive order entails avoiding the existence of jurisdictional conflicts by reason of territory when the act claimed is the forced disappearance of a person, thereby leveling the respective procedure in favor of the

---

All authorities, within the scope of their powers, are obliged to collaborate effectively with the National Search Commission for compliance with this Law.
Each Federative Entity must create a Local Search Commission, which must coordinate with the National Search Commission and carry out, within the scope of its powers, similar functions to those provided for in this Law for the National Search Commission."

[33]Case of Velázquez Rodríguez v. Honduras. Background. Judgment of July 29, 1988.

[34]Case of Radilla Pacho vs. Mexico. Preliminary Exceptions. Background. Reparations and Costs. Judgment of November twenty-three, two thousand and nine.

victims.

For the reasons stated above, the following criteria of heading and text must prevail as jurisprudence:

FORCED DISAPPEARANCE OF PEOPLE. THE JURISDICTION TO HEAR THE COMPLAINT FOR AMPARO FILED AGAINST YOU, IS SUPPLIED IN FAVOR OF THE DISTRICT JUDGE BEFORE WHOM IT IS PROMOTED. The forced disappearance of persons is a crime of a permanent or continuous nature, in which the lack of information from the state authorities about the whereabouts of the person or the refusal to acknowledge the commission of the crime predominates, so it is not always possible to determine with certainty the responsible authorities or the place or places where it is being carried out. Given this circumstance, since the claimed act can be executed in more than one district, or can even begin to be executed in one of them and continue to be executed in another, it is concluded that in terms of article 37, second paragraph, of the Law of Amparo, The judge before whom the amparo claim is filed is competent by reason of territory to hear the amparo claim filed against acts presumably constituting forced disappearance. The foregoing even results in a greater benefit for indirect victims, since it ensures that the person filing the indirect amparo claim has easier access to the amparo trial and can participate immediately in it, in such a way that burdensome requirements are not established regarding circumstances such as the identification of the place of detention or the determination of the responsible authority, personal access to the file, obtain copies, express their opinion, receive direct information,

> **provide evidence, formulate arguments and, in general, assert your rights effectively.***habeas corpus.*

Based on the foregoing and grounds, it is resolved:

FIRST. There is a contradiction in thesis between those supported by the Second Collegiate Court in Criminal Matters of the First Circuit and the First Collegiate Court in Criminal Matters of the Sixteenth Circuit.

SECOND. The criterion issued by this First Chamber of the Supreme Court of Justice of the Nation must prevail, as jurisprudence, in the terms specified in the last recital of this resolution.

THIRD. Give publicity to the jurisprudential thesis that is based on this resolution, in terms of article 195 of the Amparo Law.

Be notified; with testimony of this resolution, and when appropriate, file the file as a closed matter.

This was resolved by the First Chamber of the Supreme Court of Justice of the Nation, by unanimity of five votes of the Minister Norma Lucía Piña Hernández and the Ministers: Luis María Aguilar Morales (Speaker), Jorge Mario Pardo Rebolledo, Alfredo Gutiérrez Ortiz Mena and President Juan Luis González Alcántara Carrancá.

Signed by the President of the Chamber and the Minister Rapporteur, with the Secretary of Agreements, who authorizes and attests.

PRESIDENT OF THE FIRST ROOM

MINISTER JUAN LUIS GONZÁLEZ ALCÁNTARA CARRANCÁ

SPEAKER

MINISTER LUIS MARÍA AGUILAR MORALES

AGREEMENTS SECRETARY
FROM THE FIRST ROOM

LIC. MARIA DE LOS ANGELES GUTIERREZ GATICA

In terms of the provisions of articles 113 and 116 of the General Law on Transparency and Access to Public Information, and 110 and 113 of the Federal Law on Transparency and Access to Public Information; as well as in General Agreement 11/2017, of the Plenary of the Supreme Court of Justice of the Nation, published on September 18, 2017 in the Official Gazette of the Federation, in this public version the information legally considered as reserved or confidential information that falls within those normative assumptions.

LGM