

**NATIONAL REPORT
ALAI MEXICO GROUP
VIENNA 2010**

I.- Legal Constitutional Reforms.

On April 30, 2009 was published in the Official Journal of the Federation Decree adds a paragraph to article 4, and the fraction XXV is reformed and adds a fraction XXIX-Ñ, to the Article 73 of the United Mexican States Constitution.

The objective of the reform is to raise the Constitutional right of access to culture and the enjoyment of goods and services provided by the State, the obligation of institutions to promote the means for the dissemination and development of culture and give powers to Congress to legislate on cultural matters, copyright, intellectual property, as well as laws that establish the basis for coordinating the three levels of government on culture and the mechanisms of participation of social and private sectors in matter.

The promotion and protection of human rights, among which are economic, social and cultural rights is one of the pillars of the state's actions in that sense, the reform reinforces the Constitutional mandate requiring the State to preserve and enrich the elements of culture and national identity. In addition, the reform represents a significant advance in compliance with international commitments of our country, particularly in terms of the International Treaty on Economic, Social and Cultural Rights, which states in Article 15:

- "1. The States Parties to the present Treaty recognize the right of everyone to: a) To participate in cultural life; b) To enjoy the benefits of scientific progress and their applications; c) To benefit from the protection of the interests moral and material resulting from one's scientific, literary or artistic production of which is the author.
2. Among the measures that States Parties to the present Treaty to achieve the full realization of this right shall include those necessary for the conservation, development and dissemination of science and culture.
3. The States Parties to the present Treaty undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Treaty recognize the benefits derived from the encouragement and development of cooperation and international relations in the scientific and cultural. "

With this reform, the government of Mexico recognizes, as it has in the international arena, the obligation to respect cultural rights and the right to access to culture, the State's responsibility to promote and protect the dissemination and development of culture and create an appropriate legal framework for the exercise of these rights.

A.- Background:

An important advance in the field of culture developed from the reform in 2001 the article 2 of the Constitution, which recognized the indigenous rights and the multicultural nature of the Mexican nation. It is also important to remember that the V fraction of the Constitution Article 3, stipulates the obligation of the State's cultural development and dissemination. However, these measures were insufficient to guarantee in our country the right of access to culture.

The strategy 1.6 of National Human Rights Program 2008-2012 sets out the need to strengthen the economic, social, cultural and environmental considerations in public policy-making Federal Public Administration, in particular: "Analyze the legal framework regulating cultural heritage, in order to ensure their adequate protection by international standards "and" Ensure that the activity of cultural industries should be conducted under the principle of freedom of expression. "In that sense, constitutional reform was promoted on culture, to provide the institutions of the Mexican state with the powers necessary to achieve those objectives.

The opinion of the Decree by which is added a ninth paragraph of Article 4, the fraction XXV is reformed and adds a fraction XXIX-Ñ Article to the Article 73 of the Constitution of the United Mexican States was prepared within the Commission Constitutional Issues of the Congress based on nine bills submitted by members and groups of deputies since 1999, each of which raised the need to reform the Constitution to allow amendments to secondary legislation to promote and strengthen cultural policies.

On October 2, 2008, the Plenum of the Chamber of Deputies discussed, adopted and turned over to the Senate the opinion of Decree adds a ninth paragraph of Article 4, the fraction is reformed XXV and adds a fraction XXIX-Ñ of Article 73 of the Constitution of the United Mexican States. On December 4, 2008, the Senate approved the initiative and turned over to the state legislatures for consideration and approval in accordance with Article 135 of the Constitution. On March 24, 2009, once computed the majority of the votes as proof of the state congresses, a declaration was issued approving the constitutional amendment, which was referred to the Executive for its approval and publication in the Journal Federation official, legal act that took place on April 30, 2009.

B.- Content

The National Development Plan 2007-2012 established:

"The Government of the Republic will pay particular attention to public policies that affect the arts, culture, sport and recreation were considered as core activities for health and vitality of society. Major efforts will be made to expand the scope and depth of public action in the field of culture and art."

Both the National Development Plan 2007-2012 as the National Program for Culture 2007-2012, agree that the manifestations of culture are not only natural and intimate expressions of the people, but its conservation and recreation assets to make them contribute social and economic development of the nation. Therefore, the objective of this commitment is that Mexicans have effective opportunities to exercise fully their rights as citizens and to actively participate in the political, cultural, economic and social communities in the country.

Both documents are committed to developing a comprehensive legislation that guarantees the right to culture and enjoyment of artistic goods and services for all Mexicans, to encourage the dissemination and national and international promotion of our rich cultural and at the same time, ensure the protection of historic and artistic heritage of Mexico.

Remember that the diagnosis on the situation of Human Rights in Mexico, presented in 2003 by the Office of the High Commissioner for Human Rights in Mexico, recommends the need to clarify the legal nature and character of the entity that determines cultural politics of the country, ensuring that the cultural industries have a separate tax system, regulate the legal protection of intangible heritage, as well as increase the budget for cultural units.

The diagnosis noted that the Constitution did not establish the general principle of access, participation and enjoyment of cultural goods and services and said that "interventions in culture are isolated from each other and with other public policies of the Mexican State, in addition not expected to participate on their enjoyment, promotion and marketing and distribution of benefits. "

In that sense, the reform published on April 30, 2009, by giving everyone the right to access to culture and the enjoyment of goods and services provided by the State in this area, complies with the national plan Development, the National Program for Culture 2007-2012 and responds to the situation of our country in this field, described by the above diagnoses.

The constitutional reform approved adds a paragraph to article 4 of the Constitution, thus including access to culture as an individual guarantee in the Constitution, to read as follows:

"Everyone has the right to access to culture and the enjoyment of goods and services provided by the State in this matter, and the exercise of cultural rights. The State shall promote the means for the dissemination and development of culture, reflecting the cultural diversity in all its manifestations and expressions with full respect for the creative freedom. The law establishes the mechanisms for access and participation to any cultural event. "

It also amends Article 73 fraction XXV of the Constitution, to establish within the express powers of Congress, the legislation on copyright, plus add fraction XXIX-Ñ to read as follows:

"Fraction XXV. ... To legislate on copyright and other intellectual property figures related to it. "

"Fraction XXIX-Ñ.- To enact laws that establish the basis on which the Federation, States, Municipalities and Federal District coordinate their actions in the field of culture, except as provided in the fraction XXV of this Article. Also establish mechanisms for participation of social and private sectors in order to fulfill the purposes set out in the ninth paragraph of article 4 of this Constitution. "

The importance of the reform is that even when the items 2, 3, 6, 7, 28 and 73 of the Constitution provide a normative framework on cultural matters from now on is established the right of access to culture and exercise cultural rights.

II.- Academic activities:

Finally and in the area of academic activities, 10 years of its inception, our group continues to organize every year in conjunction with the Mexican Institute of Copyright and the Illustrious and National Bar Association of Mexico, the course of Intellectual Property which is taught by the most renowned specialists in our country, both in terms of copyright and industrial property, we have had lawyers members of specialized firms, officials of our Federal and Local Courts and as officials of the Intellectual Property offices of our government, and lawyers from various companies, with the same acceptance as ever and a remarkable academic level.

We have participated in various forums of our country, giving lectures and conferences in the would put as far as we can highlight several measures in Congress to justify the recent reforms and others that are proposing to Congress in material mainly for cultural diversity.

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