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CONSTITUTIONAL SELF-CORRECTION THE NULLITY INCIDENT AGAINST THE JUDGMENTS OF THE CONSTITUTIONAL COURT AS A JUDICIAL GUARANTEE OF THE EFFECTIVENESS OF RIGHTS

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CONTEXT

Constitutional justice understood as a complex sub-system within the institutional framework, has in its design several instruments that allow it to generate legal certainty and material guarantee of rights and superior mandates.

From an organic approach, there is a closing institution (Constitutional Court) that acts as the main "guardian of the constitution" and that both in the headquarters of abstract control[1]like concrete[2]maintains the coherence and completeness of the justice subsystem (internal legitimacy). In addition, from a substantive approach, the "constitutional res judicata" is established so that through the binding, definitive and immutable nature of the decisions issued by the Court, the design of justice is endowed with fish, legal security and superlative reinforcement to the principle of equality of the recipients of said system (external legitimacy)[3].

Consequently, the judgments of the Constitutional Court are not susceptible to being attacked through ordinary or extraordinary resources, likewise, they are not subject to the use of guardianship against judicial orders; However, the legal system recognizes the exceptional possibility of proposing (via incident[4]) the nullity of the decisions issued by the Court, a tool that has been claimed by the doctrine of the same Corporation and that in a "panoramic" way (and without any exhaustive purpose) will be exposed in the lines that follow below.

REGULATORY AND JURISPRUDENTIAL EVOLUTION OF THE NULLITY INCIDENT AGAINST THE DECISIONS OF THE CONSTITUTIONAL COURT

By explicit stipulation contained in article 49 of decree 2067 of 2001, against the sentences of the Constitutional Court there is no appeal. However, the second paragraph of the norm in question provides for the possibility of proposing the annulment of the processes before the Constitutional Court in the following terms:

> "(…) The annulment of the processes before the Constitutional Court can only be alleged before the ruling is pronounced. Only irregularities that imply a violation of due process may serve as a basis for the Full Court to annul the Process(...)."

Regarding the possibility of presenting an annulment request against the Court's rulings, the Corporation through Doc. 08 of 1993 began to develop a current and reiterated doctrine[5]where making a systematic

1. Control of legal norms.

2. Through the extraordinary review of guardianship.

3. Regarding the functions of constitutional res judicata, QUNCHE notes: "the protection of legal certainty imposed by the stability and certainty of the rules that govern the actions of authorities and citizens; the safeguarding of good faith, which requires ensuring the consistency of the Court's decisions; the guarantee of judicial autonomy that prevents opening a new debate around what has already been resolved; and assume the Constitution as a legal norm, since the decisions of the Court that put an end to the debate are intended to ensure the integrity and supremacy of the constitutional text" QUINCHE Ramírez, Manuel "Los testes constitucionales". Ed. Temis, Bogotá, 2022, p. 170.

4. Under the terms of article 106 of agreement 2 of 2015.

5. Reiterated in Docs. 05 of 1997 – Public Ministry - Carlos Gaviria Díaz. Doc. 022 of 1999 – Public Ministry - Alejandro Martinez Caballero.A-050 of 2000 – Public Ministry - José Gregorio Hernández. A-062 of 2000. – Public Ministry - José Gregorio Hernández, A-091 of 2000 – Public Ministry - Antonio Barrera Carbonell. A-031 A of 2002 – Public Ministry - Eduardo Montealegre Lynett. A-164 of 2005 – Public Ministry - Jaime Córdoba Triviño. A-060 of 2006 – Public Ministry - Jaime Córdoba Triviño. A-360 of 2006 – Public Ministry - Clara Inés Vargas Hernández. A-099 of 2008 – Public Ministry - Manuel José Cepeda Espinosa. A-281 of 2010 – Public Ministry - Gabriel Eduardo Mendoza Martelo, A-155 of 2013 – Public Ministry - Gabriel Eduardo Mendoza Martelo. Doc. 241 of 2015. – Public Ministry - María Victoria Calle Correa and A-020 of 2017 – Public Ministry - Gabriel Eduardo Mendoza Martelo, among others.

interpretation[6]concludes that it is appropriate when there is a manifest violation of due process produced in the same sentence and therefore, impossible to be deprecated prior to the notification of the sentence. Some parts of the ratio decidendi of the aforementioned Order are:

> "(…) It cannot be forgotten that the judge when issuing the sentence not only has to observe the procedural forms enshrined in the law, but also comply with the Constitution. And if it is the Constitution itself that expressly mandates respect for constitutional res judicata, a sentence that is contrary to it breaks the harmony of the legal order, since it contradicts the Constitution itself.In this case, as has been said, the lack of recognition of the constitutional res judicata has implied the violation of due process, and the consequent nullity of the sentence. But, he wonders: Given the express text of article 49 of decree 2067 of 1991, according to which "The nullity of the processes before the Constitutional Court can only be alleged before the ruling is delivered", is it admissible to allege the nullity of the sentence after it was handed down, based on facts or motives that occurred in the same sentence? The answer does not require complicated lucubrations. The same second paragraph of article 49 cited, continues by saying: "Only irregularities that imply violation of due process may serve as a basis for the Full Court to annul the process." In light of this provision, it is possible to conclude: a). The Plenary Chamber is competent to declare null the whole process or part of it. Well, according to the universally accepted procedural principle, the nullity of a process only includes what has been done after the moment in which the cause that originates it was presented. b). As the violation of the procedure, that is, of due process, was only presented in the sentence, when it was issued, the annulment included only the sentence itself. And, for the same reason, it could only be alleged after it, as it happened. No one could logically sustain that the annulment of the sentence for events that occurred in it, could be argued before issuing it. The foregoing does not mean, in any way, that there is an appeal against the judgments handed down by the Review Chambers. No, what happens is that, in accordance with the mentioned article 49, the Plenary Chamber has the duty to declare nullities that are presented at any stage of the process. And the sentence is one of them (…)"[7].

In a subsequent ruling, the Court insists that the request for annulment is an exceptional mechanism to attack the blatant and flagrant violation of due process in the constitutional process. Regarding the individual, he indicated:

> "(...) However, for reasons of legal certainty and certainty before the law, it has been considered that the declaration of nullity of a judgment of the Court has particular characteristics, since "these are very special and exceptional legal situations, which They can only cause the nullity of the process when the grounds set forth by the person claiming it show, undoubtedly and certain, that the procedural rules applicable to constitutional processes, which are none other than those provided for in decrees 2067 and 2591 of 1991, have been violated, with a notorious and flagrant violation of due process. It has to be significant and transcendental, in terms of the decision adopted, that is, it must have substantial repercussions, so that the petition for annulment can prosper (...)"[8].

In support of the construction of a doctrine on the nullity of the judgments of the Court, through Doc. 050 of 2000[9], the Corporation introduces the possibility for the aforementioned nullity to be declared unofficially by the Plenary Chamber. In this regard, he decided:

> "(…) In this order of ideas, the Court itself

6. Well, from a restricted hermetic of article 49 of decree 2067 the opposite would be concluded.
7. Doc. 08 of 1993. – Public Ministry - Jorge Arango Mejía.
8. Doc. A-033 of 1995 – Public Ministry - José Gregorio Hernández Galindo, many times reiterated.
9. PMJose Gregorio Hernandez Galindo.

must proceed ex officio to declare the nullity of its rulings, if when pronouncing them the constitutional guarantees have been ignored, even slightly. This gives certainty and confidence to the community in the sense that the court par excellence in charge of preserving the basis of the legal system binds itself strictly and with all rigor.There is no other way to explain that, in cases like this, it is the Substantiating Magistrate himself who requests the Plenary to annul a sentence handed down by the Chamber he presides over (...)".

But it is through Doc. 031A of 2002[10]that a systematization of the extraordinary causes that would lead to annulment of the sentences produced by the high Corporation is made, since it is insisted that the general rule is the inadmissibility of the mentioned possibility. On point, the Court held

> "(…)It is therefore convenient to synthesize the assumptions so that the Court can declare the nullity of a sentence that it has issued, taking into account the general rule as a starting point, that is, its inadmissibility and extraordinary nature: (...)".

The aforementioned systematization exercise led the Court to generate a "nullity test" where it clearly distinguished some formal budgets and some materials from the application, which were coined as such from Doc. 164 of 2005[11](widely reiterated), which are namely:

> "(...)**3.2.2. Formal budgets of origin**. Constitutional jurisprudence determines the formal conditions that must be met for the admissibility of the request for annulment of the review judgments. These requirements are: (i) The request must be submitted within three (3) days following notification of the judgment adopted by the Court. Once this term has expired, it is understood that any circumstance that would lead to the annulment of the ruling is remedied.[12]; (ii) In the event that the defect is based on situations that occurred prior to the time of pronouncing the ruling, the request for annulment must be requested, in accordance with the provisions of Article 49 of Decree 2067 of 1991, before the Chamber of Review issues the corresponding sentence. In the event that the parties that intervened in the constitutional process do not file a request in this sense within the foreseen opportunity, they lose their legitimacy to invoke the annulment later; 3.2.3. Material budgets of origin. In the same sense, the constitutional doctrine related to the admissibility requirements of nullity applications has also established certain conditions and limitations to the arguments that are used to found the charges against the respective sentence, which are summarized as follows: (i) The applicant bears the burden of demonstrating, based on serious and coherent arguments, that the judgment violates the right to due process. As indicated, the motion for nullity is not an opportunity to reopen the legal discussion resolved in the ruling, so a censure of the ruling based on the petitioner's non-conformity with what was decided or on a criticism of the argumentative or writing style used by the Review Chamber lacks efficacy to obtain the annulment of the sentence. (ii) The request for annulment cannot be used as an alternative for the Full Chamber of the Constitutional Court to reopen the evidentiary debate carried out by the Review Chamber that issued the respective ruling. Consequently, the charge that supports the annulment request cannot be directed towards that end. (iii) The involvement of due process by the Review Chamber has a qualified nature. Therefore, "it must be ostensible, proven, significant and

10. – Public Ministry - Eduardo Montealegre Lynett.

11 . Public Ministry - Jaime Córdoba Trivino.

12. The remediation of the annulments not alleged in a timely manner was supported by the Court when affirming that "i) in the first place, taking into account the principle of legal certainty and the need for certainty of the right***[9]****; (ii) secondly, given the impossibility of filing a guardianship action against the guardianship rulings****[9]****. And finally, (iii) because it is reasonable to establish an expiration term against the nullity of guardianship, if even that figure applies in actions of unconstitutionality due to formal defects. cf.*Constitutional Court, Doc. 031 A/02.

far-reaching, that is, that it has substantial and direct repercussions on the decision or its effects (The Court emphasizes)"[13]. Based on these characteristics, the jurisprudence identifies some cases in which the violation meets these characteristics, such as: "- When a Review Chamber changes the Court's jurisprudence. (...)- When a decision of the Court is approved by an unqualified majority according to the criteria required by law. - When there is an inconsistency between the reasoning part of a judgment and the operative part thereof, which makes the decision adopted amphibological or unintelligible[14]; likewise, in those events where the sentence is openly contradicted, or when the decision is completely unfounded. - When the operative part of a guardianship judgment gives orders to individuals who were not linked or informed of the process[15]. - When the sentence handed down by a Review Chamber ignores the constitutional res judicata, since this means the excess in the exercise of its powers.[16]"[17]. (iv) Likewise, the jurisprudence has also contemplated the configuration of a ground for annulment of the review judgments when, in an arbitrary manner, matters of constitutional relevance that have transcendental effects for the meaning of the decision are left to be analyzed.[18]. Due to the importance of this ground for the resolution of the matter under study, the Court will analyze it separately in the following section (...)"

Then, incorporating the cited precedent, the Court, when adopting its Internal Regulations, stipulated in Article 106 of Agreement 02 of 2015 (amending Agreement 05 of 1992) a provision that expressly alludes to the possibility of filing an annulment request against the decisions of the Corporation as follows:

"About nullities. Once an annulment request has been submitted in a timely manner and prior communication to the interested parties, it must be resolved by the Plenary Chamber in accordance with the following rules: a. If the annulment is invoked prior to the sentence, it may be decided in said ruling or in a separate order. If the annulment refers to merely procedural aspects, it will be resolved in an order. In the latter case, the decision will be taken within fifteen days of the request being sent to the reporting magistrate by the General Secretariat. b. If annulment is invoked with respect to the sentence, it will be decided in a separate order, within a maximum term of three months, counted from the sending of the request to the reporting magistrate by the General Secretariat.

Without prejudice of the previous, the mentioned position is reaffirmed by Doc. 020 of 2017, as it follows:

"(...) Although the aforementioned article 49 of Decree 2067 of 1991 establishes that "against the judgments of the Constitutional Court there is no recourse" and that the annulment of the processes before this Court can only be argued before the ruling is pronounced, " for violation of due process", this corporation has been accepting the possibility of requesting annulment of guardianship review sentences after their pronouncement, provided that the alleged irregularity arises from the sentence itself (...)".[19]

Through Docs 393 of 2020 and 828 of 2021, the Corporation recapitulates the assumptions of the "nullity test" making a brief explanation of its scope and concludes by reiterating the exceptional and special nature of the mechanism as follows:

"(...)In short, it is possible to conclude that the request for annulment: (i) is extremely

13. *cf.* Doc. 031 A/02.
14. *Cf.* Doc. 091 of 2000 - Public Ministry - Antonio Barrera Carbonell.
15. Cf. Doc. 022 of 1999 - Public Ministry - Alejandro Martinez Caballero.
16. Cf. Doc. 082 of 2000 - Public Ministry - Eduardo Cifuentes Munoz.
17. Order of April 30, 2002 (– Public Ministry - Eduardo Montealegre Lynett; A-031a of 2002).
18. *cf.*Constitutional Court, Doc. 031 A/02. Legal foundations 13 to 20.
19. Doc. 020 of 2017. Public Ministry - Gabriel Eduardo Mendoza Martelo.

exceptional; (ii) in principle, possible annulments can only be claimed before the judgment is pronounced; however, (iii) it proceeds against the sentences handed down by the Constitutional Court, due to the protection of the right to due process; (iv) it is subject to strict admission requirements, which are justified by the legal certainty present in the effect of res judicata predicable of the sentences handed down by the Constitutional Court; (v) it gives rise to the annulment of the sentence only when the presence of ostensible and transcendental defects that certainly affect the fundamental right to due process is sufficiently proven; and (vi) constitutes a procedure.

CLOSING DOGMATICS AND CONCLUSIONS

From the previous normative and jurisprudential references it can be concluded:

i) Although it is true, the request for annulment was only appropriate with respect to irregularities during the processing of the process as established in the aforementioned article 49 of Decree 2067 of 1991, it is also equally true that the Corporation through consolidated doctrine established precedent rules that allow to study the annulment of their own rulings, a position that was currently expressed in article 106 of its internal regulations.

ii) In order to create a methodological framework for the systematization of the circumstances of origin of the annulment request against the judgments of the Court, the Corporation developed a doctrine ("test") where two components are clearly distinguished for its recognition, which are summarized below:[20]

iii) The request for annulment is not an appeal, second instance or degree of jurisdiction; It is an exceptional mechanism[21](advanced as an incident) to deprecate blatant, blatant and flagrant violations of the fundamental right to due process generated in the process of the constitutional process or in the judgment itself under the grounds created by the Corporation itself and that are part of its current doctrine and precedent.

iv) The "constitutional self-correction" that the Court makes through the declaration of nullity of its rulings, does not detract from its function and much less undermines legal certainty; a contrario sensu, it is a guarantee and claim of the principle of constitutional supremacy and sovereignty of the rights of the people. Acknowledging oneself as fallible and consequently activating "self-protection", magnifies the vital work of the closing body[22] and

20. Own source table prepared from the aforementioned precedent on the matter.

21. It is so exceptional (especially in constitutional rulings) that in approximately 25 years of the Court's work there have been very few declarations of annulment of its rulings. In this regard, Quinche refers: "As specific cases of declarations of nullity of constitutionality sentences, we can mention Doc. 091 of 2000, which declared the nullity of sentence C-993 of 2000 (Both decisions had Judge Antonio Barrera Carbonell as rapporteur) by manifest disagreement between the motivating part and the operative part of the ruling; and Order 062 of 2000, which declared the nullity of judgment C-642 of 2000 (both decisions had Judge José Gregorio Hernández as rapporteur), because the decision was made by a relative majority and not an absolute one, as it must have been." QUINCHE Ramirez, Manuel Fernando. "The action of unconstitutionality". Ed. Ibañez, Bogotá, 2016, pages 205 and 206.

2222. In this regard, Echeverri notes: "The challenges of the judge and even more so of the constitutional judge are enormous today in the 21st century with pandemics in bulk, communion with the rights of the community becomes more demanding and imperative, adaptation to expectations of the peoples cannot be postponed, their vocation in the defense and support of democracy are the support of their legality. Perhaps rightly the concern of the judiciary must be not to be inferior to the crossroads that a society imposes on it every day more complex and diffuse. ECHEVERRI Quintana, Eudoro "The nullity

it conveys confidence to the recipients of justice who today more than ever need to believe in their institutions again to avoid continuing to resort to a "para-justice."

incident against the sentences of the Constitutional Court." Ed. Diké, Bogotá, 2022, p. 125.

REFERENCES

ECHEVERRI Quintana, Eudoro "El incidente de nulidad contra las sentencias de la Corte Constitucional". Ed. Diké, Bogotá, 2022.

QUINCHE Ramírez, Manuel Fernando. "La acción de inconstitucionalidad". Ed. Ibañez, Bogotá, 2016.

QUINCHE Ramírez, Manuel "Los test constitucionales". Ed. Temis, Bogotá, 2022.

QUIROGA Natale, Edgar Andrés. "Justicia constitucional multinivel y acción pública de inconstitucionalidad". Ed. Ibañez, Bogotá, 2019.

QUIROGA Natale, Edgar Andrés. "Hermenéutica Constitucional". Ed. Nueva Jurídica, Bogotá, 2019.

QUIROGA Natale, Edgar Andrés. "Tutela contra providencias judiciales". Ed. Ibañez, Bogotá, 2020.

JURISPRUDENTIAL

Doc. 08 de 1993. - Public Ministry - Jorge Arango Mejía.

Doc. A-033 de 1995 - Public Ministry - José Gregorio Hernández Galindo.

Doc. 022 de 1999 - Public Ministry - Alejandro Martínez Caballero.

Doc. 062 de 2000 - Public Ministry - José Gregorio Hernández Galindo.

Doc. 082 de 2000 - Public Ministry - Eduardo Cifuentes Muñoz.

Doc. 091 de 2000 - Public Ministry - Antonio Barrera Carbonell.

Doc. 30 de 2002 - Public Ministry - Eduardo Montealegre Lynett.

Doc. 020 de 2017 - Public Ministry - Gabriel Eduardo Mendoza Martelo.

Doc. 445A de 2018 - Public Ministry - Diana Fajardo Rivera.

Doc. 323 de 2020 - Public Ministry - Alejandro Linares Cantillo.

Doc. 828 de 2021 - Public Ministry - Alejandro Linares Cantillo.

I. FORMAL ASSUMPTIONS OF ORIGIN
1.CHANCE
1.1. If it is an annulment due to irregularities in the procedure, the procedural opportunity to file it will be at the time of its production or at the latest until before the sentence is pronounced. 1.2. If the request for annulment is motivated by irregularities contained in the sentence, the opportunity to propose it will be within three (3) days following its notification.
2. LEGITIMATION
2.1. In abstract control cases: (i) The plaintiff, (ii) the Attorney General of the Nation, (iii) those who intervened in the process in a timely manner, that is, those who have intervened within the term of establishment on the list, and (iv) those who have had the initiative or intervened as speakers in the elaboration of the standard. 2.2. In cases of specific control (review of guardianship): (i) The plaintiff, (ii) the defendant (iii) interveners as coadjuvants or related third parties. 2.3. Unofficially by the Plenary Chamber of the Constitutional Court.
3. ARGUMENTATIVE CHARGE
3.1. Precision of the causal invoked and the facts of its configuration. 3.2. Motivate the violation of due process. 3.3. Demonstration of the causal link between the irregularity and its incidence or significance in the deprecated decision. The request for annulment must be: clear[21], express[1], accurate[2], pertinent[3]and enough[4]. These demands are part of the due exhaustion of the plot standard.

II. MATERIAL OR SUBSTANTIAL BUDGETS OF ORIGIN (Grounds for Nullity)
1. Change of Jurisprudence[5].
"Article 34 of Decree 2591 of 1991 provides that only the Plenary Chamber of the Court is authorized to make changes to jurisprudence and therefore, any other change ignores the principle of natural judge and violates article 13 above. There is reiterated jurisprudence of this Court where annulment for this reason requires jurisprudence in force."[6]. 1.1. When a review room (T) changes the precedent set by the Full Room at the headquarters of abstract control (C). 1.2. When a review room (T) is unaware of the precedent set by the Plenary Room at the headquarters of unification of guardianship (SU).

1. "that is to say that the argument is based on objective and certain contents of the questioned ruling, not on subjective interpretations of the decision or constitutional jurisprudence". Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.
2. "since the questions that are made to the sentence must be specific, and not simple general and indeterminate judgments about the alleged irregularity of the providence". Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.
3. "since the challenges to the sentence must refer to an alleged serious violation of due process, not to reopen the concluded legal or evidentiary debate." Doc. 393 of 2020 MP Alejandro Linares Cantillo.
4. "to the extent that the argumentation deployed must provide the necessary elements that make it possible to demonstrate the existence of an alleged irregularity that violates due process." Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.
5. Through Order 272 of 2020, the Court declared the nullity of judgment T-532 of 2019 for ignoring the precedent set in judgments SU-235 and SU-426, both of 2016.
6. Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.

2. Ignorance of the legally established majorities when adopting the decision[7].

"In cases in which the Court issues a sentence without having been approved by the majorities required in Decree Law 2067 of 1991, the Internal Regulations (Agreement 02 of 2015) and Law 270 of 1996"[8].

2.1. Professing an abstract control decision (C) without counting on the majority of the members that make up the full room of the Corporation.

2.2. Issue a specific control decision of unification of guardianship (SU) without having the majority of the members that make up the full room of the Corporation.

2.3. Issue a control decision specifically for guardianship review (T) without counting on the majority of the members of the review room.

3. Violation of the principle of vertical congruence[9].

"The cause is configured when there is uncertainty regarding the decision adopted, for example, in the face of unintelligible decisions, due to open contradiction or non-existence of argumentation in its motivating part"[10].

3.1. Inconsistency between the motivating and decisive part of the decision that makes it amphibological or unintelligible.

3.2. Absolute absence of foundation.

4. Arbitrary avoidance of the analysis of matters of constitutional relevance[11].

"When the omission in the examination of arguments, claims or issues of a legal nature affect due process, if these points had been analyzed, a different decision or procedure would have been reached, or if due to the importance that it had in constitutional terms for the protection of fundamental rights, its study could not be set aside by the respective Chamber. At this point, it must be specified that the Court has the power to define the scope of constitutional analysis, restricting its study to issues that it considers to be of special importance.[12].

4.1. Pretermination of substantive analysis (claims, arguments or legal issues) that affects due process and that, if they had been addressed, a different decision would have been reached or with a dissimilar scope to the one adopted.

4.2. Pretermission of substantive analysis (claims, arguments or legal issues) that are of constitutional importance for the protection of fundamental rights.

The extraordinary and special nature of this causal requires that for its prosperity the following be demonstrated:(i) that the Chamber completely omitted the analysis of matters of constitutional relevance, (ii) that this complete omission in the analysis of matters of constitutional relevance wasarbitrary, which means that if the Review Chamber omitted any matter, but this is duly justified in the judgment, the cause does not proceed either; and (iii) that the absolute and arbitrary omission refers to the analysis ofmatters of far-reaching constitutional relevance.[13]

7. Through Doc. 071 of 2015, the Court annulled judgment C-825 of 2013, likewise, through Doc. 070 of 2015, the Court annulled judgment T-759 of 2014. In both cases, it was annulled based on this ground.

8. Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.

9. By means of order 091 of 2000, the Plenary Chamber of the Court annulled judgment C-993 of 2000 based on this ground.

10. Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.

11. Through Order 075 of 2019, the Court annulled judgment T-352 of 2018 based on this ground.

12. Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.

13. Doc. 445A of 2018. – Public Ministry - Diana Fajardo Rivera. Regarding the point under review, this ruling reiterates the arguments put forward in the Orders: A-046 of 2011. – Public Ministry - Nilson Pinilla Pinilla; A-254 of 2016. – Public Ministry - Gabriel Eduardo Mendoza Martelo; and A-090 of 2017. – Public Ministry - Antonio José Lizarazo Ocampo. In addition to this, regarding the exceptional nature of the ground in question, it maintains: "Only three times has it been declared by the Plenary of this Court: Docs. A-220 of 2015. – Public Ministry - Jorge Iván Palacio Palacio, A-186 of 2017. – Public Ministry - Alberto Rojas Ríos, and A-320 of 2018. – Public Ministry - Cristina Pardo Schlesinger. On the other occasions that it has been invoked, the cause has not prospered (A-031 of 2002, A-197 of 2006, A-223 of 2006, A-182 of 2007, A-183 of 2007, A-103 of 2009, A-003 of 2001, A-016 of 2013, A-325 of 2014, A-151 of 2015, A-187 of 2015, A-223 of 2015, A331 of 2015, A-403 of 2015, A-471 of 2015, A-472 of 2015, A-512 of 2015, A-513 of 2015, A-549 of 2015, A-553 of 2015, A-556 of 2015, A- 582 of 2015, A-099 of 2016, A-389 of 2016, A-408 of 2016, A-457 of 2016, A-522 of 2016, A-523 of 2016, A-089 of 2017, A-150 of 2017, A-269 of 2017, A-510 of 2017)". Consideration Number 36 of Doc. 445A of 2018.

5. Ignorance of the Constitutional Res Judicata[14].

"This cause derives from an excess of limits in the exercise of the powers attributed to the Court by the Constitution and the Law, which leads to the ignorance, by its own judge, of the very effect of the rulings issued by this Court"[15].

5.1. Disregard the constitutional res judicata by the full Chamber of the corporation at the headquarters of abstract control (C).

5.2. Disregard the constitutional res judicata by the full Chamber of the corporation at the headquarters of specific control of guardianship review (SU).

5.3. Disregard the constitutional res judicata by a review room of the corporation at the specific control headquarters (T).

The Corporation has indicated that for the configuration of constitutional res judicata, 3 assumptions must be taken into account: "(i) it is proposed to study the same normative content of a legal proposition already studied in a previous sentence"; (ii) the same reasons or questions are presented (this includes the constitutional referent or rule allegedly violated); (iii) the normative pattern of control has not changed"[16].

The existence of this causal does not mean that the Court cannot vary and/or modify the precedent that it has on a certain matter, since the precedent can be mutable to the beat of the same social, political, economic changes, etc., that occur within the state. However, said variation requires a load of recognition (proving knowledge of res judicata) and a load of argumentation (realizing the reasons for the mutation).

6. Orders to individuals not related to the process[17].

"Expression of the rights to defense and contradictions of those affected by an order by not having participated in the process. This last ground for nullity has more room in the seat of specific constitutional control.[18].

6.1. Violation of the principle of contradiction and defense by containing the decision in its ratio decidendi orders to people who were not linked to the process.

6.2. Violation of the principle of contradiction and defense by containing the decision in its operative part, orders to people who were not linked to the process.

14. Through Order 229 of 2017, the Court annulled judgment T-615 of 2016 for ignorance of the constitutional res judicata established in judgments C-168 of 1995 and C-258 of 2013.

15. Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.

16. Doc. C-744 of 2015. – Public Ministry - Gloria Stella Ortiz Delgado.

17. Through Order 022 of 2009, judgment T-014 of 1999 was partially annulled based on this ground.

18. Doc. 393 of 2020 – Public Ministry - Alejandro Linares Cantillo.