



Venezuelan Supreme Court Rules "State of Exception and Economic Emergency" as Legal

By Holland & Knight

The Supreme Court of Justice of Venezuela declared last month the constitutionality of Decree 3,844, issued on May 10, 2019, by means of which the government of Nicolás Maduro enacted a State of Exception and Economic Emergency throughout the country.

Four factors were taken into consideration by the Constitutional Division of the Supreme Court to support the decision: 1) enforceability of sanctions against Venezuelan oil; 2) the United States blockade of the Venezuelan economy; 3) the decision of the Venezuelan government to request an "arbitration forum" before the World Trade Organization (WTO) for "illegal commercial practices" allegedly carried out by the United States and Colombia; and 4) the signature of 11 bilateral agreements between Russia and Venezuela, covering topics such as oil, finance and trade, among others.

The Venezuelan law and the declaration of the State of Exception and Economic Emergency allow that guarantees for the exercise of the rights granted by the Venezuelan Constitution be restricted, with few exceptions, provided that the application of exceptional measures are exhaustively established by law.

Among the exceptional measures that can currently be applied in Venezuela are: 1) the possibility of establishing tax exemption systems and rates for capital importations and raw materials for national production and industry, and 2) incentives for productive, industrial and commercial sectors and services, so as to promote the private investment of national entrepreneurs. In addition, the decree provided the possibility that the Ministry of People's Power establishes, in conjunction with the Central Bank of Venezuela, restrictions on certain operations and commercial or financial transactions.

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