



Venezuela Issues Organic Law on Extinction of Ownership of Property

By Holland & Knight

The Organic Law on Extinction of Ownership of Property (the Law), issued by the National Assembly of the Bolivarian Republic of Venezuela, was published on April 28, 2023, in the *Official Gazette* No. 6.745. The purpose of the Law is to establish mechanisms for the identification, location and recovery of assets and heritage assets originated or destined for illicit activities.

Likewise, the Law regulates the procedure for the extinction of ownership of assets originated or destined to the commission of illicit activities by the Venezuelan state, without any consideration or compensation.

The Law clarifies that the extinction of ownership will proceed retroactively to situations that occurred prior to its effectiveness, establishing as the only limit to the action of extinction of ownership the right of ownership that has been obtained in a lawful manner, whose attributes are exercised in accordance with the social function of property and the Constitution of the Bolivarian Republic of Venezuela, as well as other applicable laws. Also, the Law states that the action for forfeiture of ownership is imprescriptible and independent of criminal action.

Article 8 of the Law states the different situations under which the forfeiture of ownership of real and personal property is applicable, among which are those obtained directly or indirectly from illicit activities, those of legal origin mixed or used to hide goods of illicit origin, and those that represent a patrimonial increase to any natural or juridical person without sufficient and reliable evidence of the legal origin of enrichment, among others.

Regarding the action of extinction of ownership, it is emphasized that it will be carried out by the Public Ministry, either ex officio or by means of a complaint, and will culminate with the issuance of a motivated resolution by this entity where the action of extinction of ownership is expressly formulated before a court specialized in Extinction of Ownership, or on the contrary, the filing of the proceedings is ordered.

Once the forfeiture of ownership action has been filed before the judicial authorities, a date will be set for a preparatory hearing in which the parties will present their evidence in support of their position. Then, a hearing on the merits will be held in which the evidentiary practice will be carried out.

Once the above stages have been completed, the court will issue a decision on the merits in which it will rule on whether or not the extinction of ownership is appropriate or inappropriate. Said decision will have the character of a judicial sentence, and therefore, it will be subject to revocation and appeal resources.

Finally, the assets declared in forfeiture of ownership may be alienated or kept in the heritage assets of the Venezuelan state to be used for its administrative activity. This power of alienation or disposition of the goods will be led by the Venezuelan Recovered Goods Service.



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