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## RESTITUTION OF ASSETS UNDER STATE CONTROL: SOME IDEAS FOR EFFICIENT SOLUTIONS

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The purpose of this **LEGA Perspectives** is to propose some possible solutions for the restitution of assets that are currently in the hands of the State as a result of expropriation decisions or other administrative or judicial measures.

In another **LEGA Perspectives** we will refer to rules and principles for cases of privatization of State assets whose ownership or possession does not originate from expropriations or other administrative or judicial measures.

### **I. Recent decisions and announcements on assets under the control of the Venezuelan State**

In recent weeks, some decisions have been issued and some announcements have been made about assets under the ownership and/or administration of the Venezuelan State. [As we have explained in this other \*\*LEGA Outlook\*\*](#), these announcement decisions could suggest future privatization policies.

#### *1. Audit of assets under the ownership or administration of State bodies or entities*

In the Official Gazette No. 43,306 of January 29, 2026, *Ruling No. 023* was published, through which the guidelines for the diagnosis and sanitation of the Real Estate of the Organs and Entities of the Public Sector are dictated.

As summarized in this **LEGA Perspectives**, the *Providence* orders all public sector bodies and entities to carry out an inventory and diagnosis of their real estate, and to implement the necessary measures for the legal, administrative, and technical sanitation of real estate.

2. *Commission for the Disincorporation of Public Goods and the Bidding Committee for the Sale and Exchange of Public Goods of CANTV*

In the Official Gazette No. 43,309 of February 3, 2026, the Act of fifteen (15) of October 2025 was published, through which the Members of the Commission for the Disincorporation of Public Assets and the Bidding Committee for the Sale and Exchange of Public Goods of CANTV are appointed.

3. *Strategic Asset Evaluation Committee*

On April 9, the president in charge announced that a Strategic Asset Evaluation Commission would be created, to attract investments. Hydrocarbon assets would be excluded from the commission's assessment.

Then, on April 22, the installation of the "Commission for the Evaluation of Public Assets" was reported in the press, which would work on four stages, as was also reflected in the press:

- (i) Strategic assets: Those assets that, by their nature, belong to and remain under the absolute control of the State.
- (ii) Public-private partnerships: Models where the State maintains ownership, but partners with private capital to obtain technology, investment and efficiency in production processes.
- (iii) Supply of non-essential assets: Identification of goods that are not considered critical for the strategic purposes of the State and that could be offered.
- (iv) Liquidation and use: Processes aimed at assets that require closure or residual value management.

## II. Diversity of situations of assets owned or under State management

Under the control of the State there are a number of assets with different origins, which gives rise to various legal and financial situations. Some assets are State enterprises and their corresponding assets, incorporated at various times. Other assets are companies and their assets acquired by the State in various ways, such as purchase, donation, dation in payment, etc. Other assets are under the control of the State because it has issued administrative measures to control the possession and operation of the asset. Some assets have been subject to expropriation decrees and the expropriation procedure was completed. Some other assets are under the control of the State because expropriation proceedings have been initiated and have not yet been completed.

In this **LEGA Perspectives** we want to point out some channels for the restitution of assets that have been the subject of expropriation decrees, or that are under the de facto control of the Venezuelan State. As noted above, in another **LEGA Perspectives** we will refer to rules and principles for cases of privatization of state assets whose ownership or possession does not originate from expropriations or other administrative or judicial measures.

## III. Some channels for the restitution of assets under the ownership or possession of the State by expropriation decisions or other administrative or judicial decisions

### 1. *The legal and special regime of expropriation in Venezuela*

The legal regime of expropriation in Venezuela is contained in general and special rules. The general rules are contained in the *Law on Expropriation for Reasons of Public or Social Utility* (LECUPS).

Since 2005 and for several years, various special laws established special expropriation cases and procedures.

Therefore, in order to analyze the validity of an expropriation case, it is not enough to analyze its conformity with the *Constitution* and the LECUPS, but it is necessary to analyze each case to determine whether a special law that establishes rules for that specific case applies.

This clarification also applies when analyzing how the restitution of assets resulting from the expropriation could be granted.

### 2. *Expropriation policy and the cases regulated in the LECUPS and special laws, and the cases of "de facto expropriations" and "regulatory expropriations"*

In this sense, the expropriation policy was developed in two ways: (i) in some cases the LECUPS or some special law was invoked, and at the beginning of the procedure that general law or that general law was applied in conjunction with some special law; (ii) in other cases, there was a de facto seizure of privately owned assets by the Venezuelan State, which led to the use of the term "de facto expropriations." These are cases in which, for example, an Expropriation Decree as such would not even be issued.

In other cases, the different legislative and administrative regulations imposed for different reasons by the State gave rise to cases of "regulatory expropriation".

In accordance with the principle of patrimonial integrity derived from Articles 115 and 140 of the *Constitution*, in all those cases in which patrimonial damage has been caused to the owner, fair compensation is due, even when they are not cases that could be considered under the traditional concept of expropriation: if damage occurred on the occasion of some intervention or dispossession of assets, he must be compensated, even if there was no Expropriation Decree and expropriation procedure, general or special. In these cases, part of the compensation agreement could involve the return of the assets subject to the illegal dispossession to their original owners, who could even operate them again if they decided to do so.

### *3. The preliminary analysis of the type of "expropriation" over the assets*

From the distinction made above, a methodological conclusion is derived: the first analysis to be carried out on the case is whether or not an Expropriation Decree was issued and to what extent an administrative expropriation procedure was or was not carried out.

This preliminary analysis, as will be seen immediately, will guide us on what may be the most efficient way to proceed with the compensation of the affected owner, and to eventually return the asset resulting from the expropriation policy.

### *4. A case in which a Decree of Expropriation has been issued*

The first case is the one in which an Expropriation Decree was issued. In such cases, it is necessary to analyze the validity of the Expropriation Decree in accordance with the *Constitution*, the LECUPS and the special law that may be applicable.

The other aspect to be analyzed is whether or not an expropriation procedure was carried out and to what extent, and under what conditions. It happened on occasions that the Expropriation Decree was issued, so that the asset was "affected", but then the administrative

expropriation procedure was not substantiated, even though the Expropriation Decree could be accompanied by some administrative precautionary measure of occupation of the property, or intervention in the management of the company.

Depending on the case, it will then be convenient to analyze how to proceed: whether to continue -or formally initiate- the expropriation procedure, which gives rise to the payment of fair compensation in accordance with the LECUPS and the applicable special law, if applicable, or whether to issue a Decree by which the Expropriation Decree is revoked, by which the property is consequently "disaffected", and from which the patrimonial damages caused by the expropriation decree are paid. The administrative and/or judicial measures that were issued to proceed with the seizure of control of the asset should be revoked.

*5. In this case, no Expropriation Decree was issued, and yet the owner lost control over the assets*

There are other cases in which an Expropriation Decree was never issued, and in which, however, the owner lost control of his asset, by virtue of administrative or judicial measures that gave control of the asset to some administrative authority.

In these cases, in which there is no Expropriation Decree, it will be necessary to decide whether it is advisable to issue an Expropriation Decree and substantiate the corresponding administrative procedure that gives rise to the judgment approving the compensation and the payment of fair compensation, or whether the necessary administrative and/or judicial measures are issued so that the asset is reverted to its owner. and that the compensation for patrimonial liability that corresponds to him for the dispossession of his property suffered is agreed.

In any case, also in this case, the administrative and/or judicial measures that were issued to proceed with the seizure of control of the asset should be revoked.

*6. Cases where the original owner of the asset is not interested in the restitution of the asset*

However, it may happen that the original owner of the asset is not willing to receive it, for some reason.

In such cases, the original owner is still entitled to compensation for the dispossession of his or her asset, which must be paid in full, even if he or she does not regain control of the asset.



But not only would it be required that the original owner of the asset receive the corresponding compensation, but it is also required that the asset pass into the property of the State, or even of a third party, with all the formalities of the case. To this end, the expropriation procedure can be substantiated, which could end through an amicable settlement. Another option is that the asset, formally still in the property of the dispossessed owner, is sold to the Venezuelan State, or to a third party.

#### **IV. Conclusion**

One of the conclusions of the evaluations of the Strategic Assets Commission announced by the National Executive could be the need to return assets owned or under State administration as a result of the policy of expropriations or other administrative or judicial measures.

However, the legal and financial situations of these assets can be very different, depending on the Laws that were applicable at the time, and the status of the proceedings that were conducted, as summarized in this **LEGA Outlook**.

This leads to the conclusion that each case must be treated in its particularity, in order to find the most efficient solution in legal and financial terms if the restitution of the State's assets to its previous owners or to third parties were to be proposed.

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