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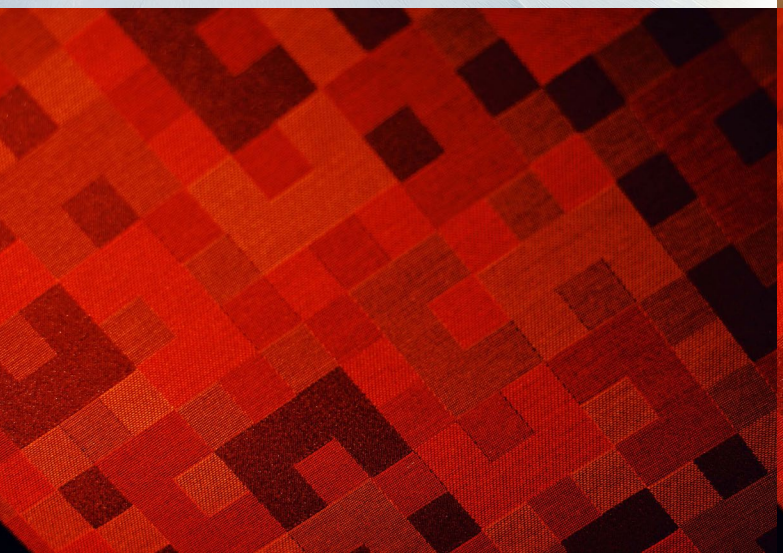
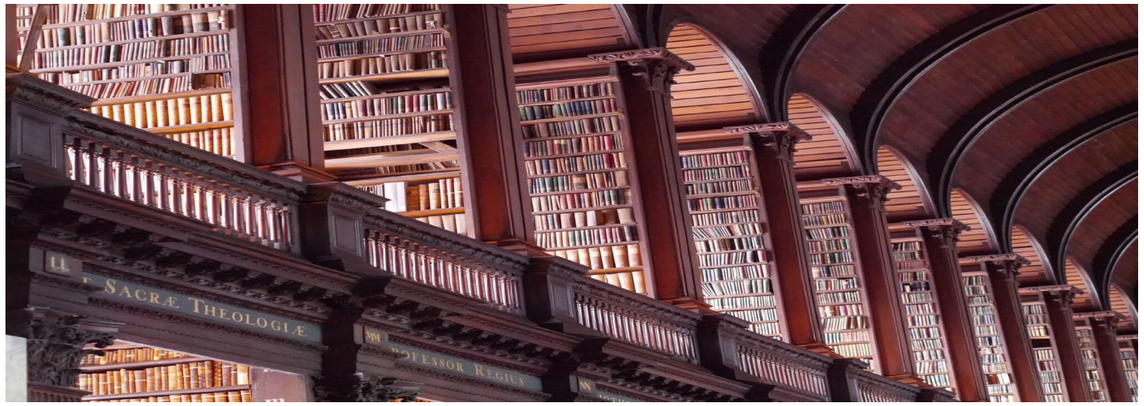


Baker McKenzie Named World's Best Law Firm Brand for 10th Consecutive Year

Leading global law firm Baker McKenzie has been named as the best law firm brand for the 10th consecutive year by Acritas' Global Elite Law Firm Brand Index. The Firm once again ranked top for each of the measures that make up the Index – awareness, favorability, consideration for multi-jurisdictional deals and for multi-jurisdictional litigation.

Baker McKenzie also once more widened its lead over its nearest competitor, receiving an overall score of 100, which is 57 points ahead of the firm ranked in second place.



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Blockchain Revolution: The Basics of Blockchain and its Legal Implications

*Marie Roschelle C. Quintero**

Resumen: *El ser humano instintivamente siempre ha buscado nuevas formas de sobrevivir y de obtener lo que desea de una manera más fácil y rápida. Ese continuo esfuerzo intelectual y creativo ha llevado actualmente a la humanidad al avance imparable de la tecnología cambiando su estilo de vida en todos los sentidos. Expertos han llamado a esta revolución tecnológica "La Cuarta Revolución Industrial" o "Revolución 4.0"[1]. La Revolución 4.0 se diferencia por una automatización total de la manufactura, y es una convergencia de nuevas tecnologías y avances que fusionan el mundo físico, digital y biológico, teniendo un impacto en todas las economías, disciplinas, industrias, e incluso plantean nuevamente el debate sobre lo que realmente significa ser un ser humano, al mejor estilo cyberpunk[2]. Algunos ejemplos de las áreas que evidencian esta revolución son: (i) robótica / inteligencia artificial (IA), (ii) nanotecnología, (iii) biotecnología, (iv) computación cuántica[3], (v) la internet de las cosas ("the internet of things - IoT")[4], (vi) impresiones en 3D, y (vii) blockchain.[5] En este artículo brindamos una breve explicación sobre esta última, sus aspectos fundamentales y cómo ha impactado en distintas áreas, lo cual nos lleva a analizar los retos que representa para el mundo jurídico actual.*

Key words: blockchain; smart contracts; cyberlaw; artificial intelligence; fintech.

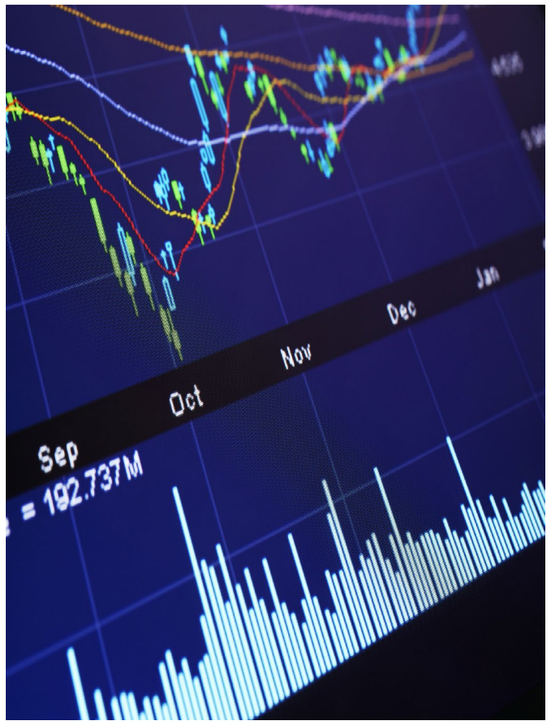
What about the hype? Let's face it, everyone everywhere is always talking about innovation, blockchain technology, cryptocurrency and smart contracts. Any business leader or CEO would agree in how important they are. However, it seems like most of the professio nals except for programmers and coders still are not fami liar with these terms or at least have only a general idea of what they are, specially lawyers. Thus, we need to become familiar with the term blockchain technology since we already are in the Revolution 4.0. Experts argue that a better understanding of this technology will become a tool deployed to achieve specific purposes but it is not a goal in itself[6].

Like the previous industrial revolutions, the Fourth Industrial Revolution has the potential to raise global income levels and improve the quality of life worldwide. This is happening on a daily basis, companies and communities of engineers, designers, coders, and architects are improving and creating entirely new ways of serving existing needs in all the industries, and transforming entire systems of production, management and governance[7]. Certainly, this could be overwhelming with all the technical terms that we must add to our lexicon and to be fair, it totally is. The Revolution 4.0 is "*unlike anything humankind has ever experienced*"[8]. In fact, this revolution is different for its systems impact, velocity and wide scope.

Origin. Anyone has heard of Bitcoin but actually has no idea what Bitcoin or Blockchain actually are. Then again, no one really seems to know except for programmers and coders. In very simple words, Bitcoin is a virtual currency. Nevertheless, where it came from? The initial movement of *The Cypherpunks*[9] took place in 1992 when Eric Hughes a mathematician and author of "*A Cypherpunk's Manifiesto*"[10]; Tim May, a businessman who worked for Intel, better known as co-funding the Cypherpunks' mailing list , creator of "*The Crypto Anarchist Manifiesto*"[11] and many others political writings explaining the role of the group to the online community; John Gilmore, a computer scientist and founder of Cygnus Solutions to support free softwares, and Judith Milhon, a world-famous hacker, invited their closest friends to a meeting to discuss some of the world's top cryptographic and programming matters, and online liberty[12].

Over time, the online mailing list grew with important and essentials contributions from Julian Assange, well-known editor, publisher and activist, founder of WikiLeaks, Adam Back, a crypthographer who created Hashcash, Phil Zimmerman, another cryptographer and computer scientist, and Hal Finney, a developer for PGP Corporation an early Bitcoin contributor.

In 2008, an anonymous scientist or group of individuals under the name of Satoshi Nakamoto published a nine- page whitepaper explaining in detail how to make a completely novel cryptocurrency based on a mathematical formula[13]. Nakamoto described the Bitcoin as a peer-to-peer electronic cash system that would allow online payments to be sent directly from one party to another



without going through a financial institution.

What is blockchain? It is a peer-to-peer, immutable, decentralized and distributed ledger, which consists of validated blocks of data that are linked in a time-sequenced chain. Peer-to-peer means that each user becomes part of the network. Instead of a traditional network where all the information is on one central server, with a peer-to-peer network it is spread out among all the users, which makes it resilient to any form of manipulation and diminished the risk to be hacked. In this sense, blockchain creates a real-time digital record verifying that a transaction with certain data happened in certain time and order. The blockchain has never been hacked and its resistance to be so is extremely important from a legal perspective.

Since it is operated by a network of computers (each, a "*node*") and not by a central party, this makes it too difficult to hack. It is not only data that can be transferred via blockchain but also music, real estate titles.

How blockchain works? The best example to explain this is with Bitcoin, the most popular cryptocurrency. The traditional way to make an online payment is to rely on a trusted third party (*e.g.*, a bank) to process your transaction. Said third party will confirm if you have enough funds to make the transaction and provide you a safe way for the operation to take place. Under the scenario of the Bitcoin blockchain, if you want to make a transaction the bitcoin blockchain can review the person's transaction history to calculate at that point in time, if it has sufficient funds. Therefore, there is no need for a third party to check the account.

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1 Schwab, Klaus (Founder and Executive Chairman of the World Economic Forum), "*The Forth Industrial Revolution*", Geneva, 2016, World Economic Forum.

2 Cyberpunk is a subgenre of science fiction usually about a dystopian futuristic world, which is largely controlled by computers. Rebellion against large corporations and established organizations is a key aspect of cyberpunk. As such, main characters are often portrayed as alienated and marginalized by society and often features countercultural antiheroes trapped in a dehumanizing high-tech future.

3 Quantum computing is an area of study focused on developing computer technology based on the principles of quantum theory. Quantum theory explains the nature and behavior of energy and matter at the quantum (atomic and subatomic) level.

4 It refers to the interconnection of computing devices embedded in everyday objects via the Internet, enabling them to send and receive data.

5 A blockchain is a digital record of transactions. The name comes from its structure, in which individual records, called blocks, are linked together in single list, called a chain. Blockchains are used for recording transactions made with cryptocurrencies, such as Bitcoin, and have many other applications. See TechTerms, available at: https://tech-terms.com/definition/blockchain

6 See: "Blockchain beyond the hype", Geneva, 2018, World Economic Forum. Available at: https://www.weforum.org/whitepapers/blockchain-beyond-the-hype

1. 7 Pirrus, Benjamin, "Shell Sees Importance in Blockchain, Plans To Harness EWF Public Chain", 2019, Forbs. Available at: https://bit.ly/347In7f

8 See Schwab, Klaus, *The Forth Industrial Revolution*…ob. cit., *supra* note 1 at 1.

9 "*Cypherpunk*" is a play on the word 'cipher' or 'cypher', one of the ways to perform encryption and decryption and; cyberpunk a genre of fiction made popular by sci-fi writers. See *supra* note 2.

10 Hugues, Eric, "A Cypherpunk Manifiesto", 1993. Available at: https://www.activism.net/cypherpunk/manifesto.html

11 May, Tim, "The Crypto Anarchist Manifiesto", 1992. Available at: https://www.activism.net/cypherpunk/crypto-anarchy.html

12 Redman, Jamie, "*An introduction to the Cypherpunk Tale*", 2015.

13 Nakamoto, Satoshi, "Bitcoin: A Peer-to-peer Electronic Cash System", 2008. Available at: https://bitcoin.org/bitcoin.pdf

The integrity and transaction history of the ledger are enforced with cryptography. Each new bitcoin transaction is transmitted to the nodes in the network and must be validated by the network solving a cryptographic problem. Each transaction block added to the ledger contains a representation (hash value) of every previous block - which creates a chain of blocks (hence, the "blockchain"). The use of encryption and the distributed nature of the ledger makes it very secure. Once a block is validated by the nodes, it is virtually impossible to be changed, then it becomes "immutable"[14].

Above there is a very simplified explanation of how a blockchain works. It is a very complex technology so it is the internet or smartphones. Most of the people do not know in detail how they work but know what they used them for.

What is the impact of the blockchain in the industries? *"Blockchain could dramatically reduce the cost of transactions. It has the potential to become the system of record for all transactions."*[15] Indeed, there are key benefits of blockchain that are revolutionizing business, services and industries. Some of those benefits include: (i) **descentralized**: the ledger is not controlled by one gatekeeper. It is distributed, which means that it is more secure as there is no single point of failure. Actually, it is impossible to hack since there is no power enough to do so even with all the computers in the world[16]; (ii) **peer-to-peer**: blockchain enables transactions without the need for a third party intermediary. The required trust is provided by the network and technology. "In math we trust" - Simon Dingle says; (iii) **secure**: the blockchain provides for a record of transactions which is very difficult to hack, as we commented before. The platform is protected from attack by the network; (iv) **transparency**: every transaction is recorded in the ledger and everyone has access to the information; and (v) **utility**: what adds value to cryptocurrencies is their usefulness; with the blockchain technology they are easy to send, cryptographic security, exchangeable for fiat currencies, independent from banking institutions, transportable and have an upward trend.

14 For further and more detailed explanation, see: Bauerle, Nolan, "Blockchain 101", 2019, CoinDesk. Available at: https://www.coindesk.com/learn/blockchain-101/what-is-blockchain-technology

15 Iansiti/Lakhani, "The Truth about blockchain", January/February, 2017, Harvard Business Review. Available at: https://hbr.org/2017/01/the-truth-about-blockchain

16 However, Google has been working on quantum computers and says that has achieved "quantum supremacy" for the first time, surpassing the performance of conventional devices with an advanced computer. See: https://www.scientificamerican.com/article/hands-on-with-googles-quantum-computer/. Authors explain that quantum computing is different and it is the first computing paradigm since Turing that is expected to change the fundamental scaling behavior of algorithms, making certain tasks feasible that had previously been exponentially hard. Of these, the most famous examples are simulating quantum physics and chemistry, and breaking much of the encryption that currently secures the internet. See: Aaronson, Scott, "Why Google's Quantum Supremacy Milestone Matters", October 2019, New York Times. Available at https://www.nytimes.com/2019/10/30/opinion/google-quantum-computer-sycamore.html.

The use of blockchain technology. It is not surprising that the financial sector was one of the first sectors to explore the benefits of blockchain given its connection with cryptocurrencies. However, there is blockchain technology used for other purposes beyond finance. Indeed, given the flexibility of this technology, it is used in several sectors including pharma, social media, medical data, supply chain, election platforms, real estate and retail, and identification systems. Although the uses across industries can be different, there are common matters as trading, supply chain and reconciliation. The nature of the uses are related to payments, compliance, identity, record keeping, registers, and fraud prevention.

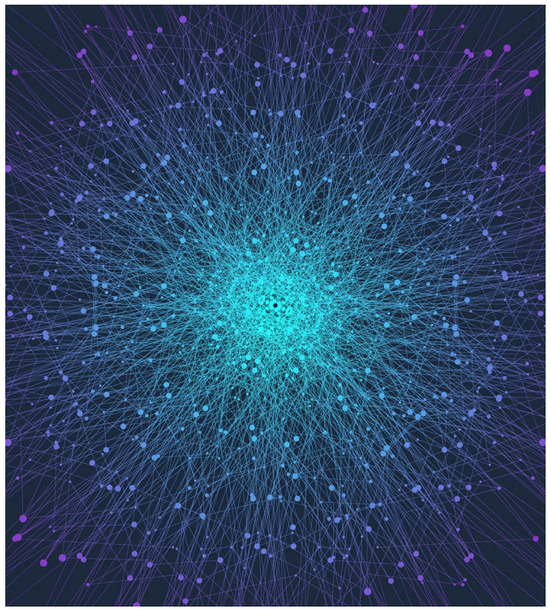
Supply chains. Depending on the product, the supply chain can be incredible complex with hundreds of storages, payments and invoices, different locations and lack of transparency. With the use of blockchain, since every transaction is recorded on a block and across multiple copies of the ledger that are distributed between the nodes, it is highly transparent and secure. Records on the blockchain cannot be erased which is important for a transparent supply chain and also can even provide information on when and where a product is made, processed, shipped, storage conditions, which it is very useful for compliance purposes and help with reputation of companies.

Due to the transparency of blockchain, it is also essential to allow consumers to know that they are supporting companies with whom they share the same values of environmental protection and sustainable manufacturing[17]. At each step, all parties verify the existence and conditions of goods and the formation is digitally linked to goods. This is also extremely important in the fashion industry, especially with the origin and ownership of diamonds.

Oil and Energy industry. The robots are coming. There is a huge digital transformation in this industry with the use of blockchain for automation of processes with artificial intelligence. It is mean more safety, cyber security and it reduces emissions.

Smart Contract. It is a digital form of agreement using blockchain. When certain conditions are met, it automatically facilitates, verifies or enforces negotiations without the intervention of thirds parties. These "contracts" help to exchange money, property, shares, or anything of value in a transparent, cheaper and easier way than contracts in the traditional sense. Blockchain technology enables the automation of transactions via decentralized apps that sit on top of the ledger. They are different from the traditional legal contracts, we have to bear in

17 Provenance is a digital platform that empowers brands to take steps toward greater transparency. With their software, businesses can easily gather and present information and stories about products and their supply chains, including verified data to support them. By connecting this information to things - in store, on pack and online, we can all discover the origin, journey and impact of products. See: Project Provenance Ltd. https://www.provenance.org/whitepaper



mind that actually "Smart Contracts" are programmable transactions-computer code that acts as an execution mechanism. It works based on certain conditions, when these conditions are met; the protocols automatically perform a set of instructions[18]. Smart contract use cases range from simple to complex. They can be used for simple economic transactions (*e.g.,* sending money from A to B), registering any kind of ownership and property rights (*e.g.,* intellectual property or real estate property rights), or managing smart access control for the sharing economy. Smart contracts have the potential to disrupt many industries. They can be used in several industries: banking, finance, energy, e-government, telecommunications, music industry, real estate, art, and many more. For example, for a share transfer, it is possible to write in the code as a transaction condition that the shares will be transferred to the party after the money is deposited into a specific account. So, first, the algorithm checks the balance and then the deal will be signed.

Blockchain and law. There is limited blockchain legal and regulatory developments globally. This is not particularly surprising since it is common for the law to play catch-up to new technology, which is evolving on a daily basis. Few jurisdictions have introduced new laws or regulatory guidance concerning blockchain.

There is no one agreed-upon definition of virtual currency. For example, the European Banking Authority (EBA) defines a virtual currency as a "*digital representation of value that is neither issued by a central bank or public authority nor necessarily attached to a fiat (conventional) currency, but is accepted by natural or legal persons as a means of exchange and can be transferred, stored or traded electronically*". The European Central Bank (ECB) defines a virtual currency as a "*type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community*". According to the definition of the Financial Action Task Force (FATF), "*Virtual currency is a digital representation of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status (i.e. when tendered to a creditor, is a valid and legal offer of payment) in any jurisdiction*".

18 https://blockchainhub.net/smart-contracts/

On November 30, 2019, the German Parliament passed a bill which amends an existing anti-money laundering directive to allow German banks to both sell and store cryptocurrencies. The new law will take effect January 1, 2020, though certain requirements must first be met through the country's financial regulator, BaFin[19].

Denmark is not only one of the most bike-friendly countries in the world, but also one of the most crypto-friendly. From a tax perspective, all crypto capital gains in Denmark are fully tax exempt. What's more, crypto trading is not taxed (yet, at least). In Spain, the tax authority has established that bitcoins and other cryptocurrencies are subject to income tax.

Since early 2018, in Venezuela, Nicolas Maduro started issuing regulations on cryptocurrencies and cryptoactives by Presidential Decrees in order to complement existing exchange control regulations and further develop the economy. A national cryptocurrency called "Petro" and the corresponding controlling entities were created. Unlike most cryptocurrencies, Petro is said to be backed by oil reserves, gold, diamonds, coltan and other Venezuelan commodities. The nature of this currency has been widely contested. At the international stage, however, Petro still faces the U.S. sanctions. In any case, Nicolas Maduro has been pushing hard to promote the use of Petro, which currently is not listed on any major cryptocurrency exchange.

In general terms, most regulators have taken a wait and see approach first. However, the lack of new regulations does not imply that there is no regulation at all. In most of the cases, organizations and companies need to apply the existing law for example for data protection, corporate issues, regulatory compliance and securities.

19 See: https://www.globallegalinsights.com/practice-areas/blocchain-laws-and-regulations/germany#chaptercontent2

Wearable technologies and Data Privacy regulations

*María Victoria Díaz**

Resumen: *En Venezuela no existe una regulación especifica que proteja la data que se recolecta, almacena y procesa a través de los dispositivos tecnológicos "wearables". Tampoco dichos dispositivos cuentan con el nivel de seguridad necesario para la protección de la data de los usuarios, lo que hace que la data sea* más vulnerable *frente a la filtración generada por terceras personas. Sin embargo, el almacenaje, acceso y transferencia de data se encuentra resguardado por principios de rango constitucional. Una eventual regulación de este tema debería hacer un balance entre las necesidades y los derechos de los propietarios de la data y las necesidades y fines para los cuales el regulador dictará la regulación.*

Key words: wearable technologies; data privacy; personal and sensitive data; prior consent.

Wearable technologies are related to electronics devices that we can wear on our body. These devices offer many advantages in comparison to other devices, (i.e.) are more user friendly and versatile. Currently, there are wearable technologies related to wellness, health, sports, entertainment, industrial, work and military industries. (i.e. SmartWatches, SmartGlasses, Fitness Bands, SmartRings). However, wearable technologies present potential security risks in the collection, storage and processing of data.

A research conducted by Symantec[1] (Symantec Research") shows that *"all wearable activity tracking devices it surveyed are vulnerable to location tracking* (…) *it can allow them to gain deep insight into an individual"*. Also *"a wearable tracking device is responsible for providing sensor readings and transmitting the data to the smartphone. Data is typically synced to a smartphone using a wireless mechanism such as Bluetooth Low Energy or ANT+, but sometimes a physical connection may be used. The smartphone app is then periodically synced to the cloud through an Internet connection".*[2]

According to the Symantec Research, if a person uploads all his/her running habits to the service provider's cloud servers, third parties could learn a lot about: (i) mileage covered; (ii) when and where that person usually goes running; (iii) where they live; (iv) age, sex, height, and weight; and even (v) where and when the person goes on vacation.

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1 Symantec is an International corporation which develops and market computer's software's, specifically in informatics security domain. Available at: http://www.symantec.com/content/en/us/enterprise/media/security_response/whitepapers/how-safe-is-your-quantified-self.pdf

2 See Symantec Research.

The storing, collection and processing of personal and sensitive data in wearable devices has become a delicate matter due to security reasons. Nowadays it is easier to identify and also track an individual by only "accessing" the personal data stored in a wearable device. The Symantec Research shows that "*52 % of self-tracking apps do not have privacy policies or statements that inform consumers about the device's processes in respect to collection and use*[3]. This makes the data more vulnerable to be reached by unknown third parties[4].

Unfortunately, in Venezuela there are no express rules or regulations regarding data privacy on wearable devices. Nevertheless, the Supreme Court of Justice declared in a decision dated in March 14, 2001[5] that privileged information is constitutionally protected if such information, contained in one or more combined registries, could create a complete or partial profile of the individual whose data is included in such registries. This can happen through wearables devices.

Also, in another decision of August 2011 the Constitutional Chamber of the Supreme Court of Justice stated that it is mandatory to obtain the "*prior, free, informed, unequivocal and revocable consent"*[6]of the data owner. Therefore, it is unlawful to access the data of a third party and the data stored without prior consent. Any infringement to the right of protection of data will give rise to civil, administrative and criminal penalties. Thus, in the absence of express rules in Venezuela it is necessary to rely on other existing data privacy rules and regulations.

The personal and sensitive data is protected in many jurisdictions around the world. However, the regulation of wearable technologies as data storing is yet under discussion. Apparently, some progress have been registered for certain "medical devices", among which there are those wearables capable to create a diagnostic linked to someone´s health. However, even in the case of those "medical devices", the general rule on data collection also applies, i.e, to use, collect, store and process data, it is mandatory to obtain the prior consent of the data owner. Venezuela is as an "*opt in*" country, so prior, written and unequivocal consent should be granted by the data owner.

In a view of global regulations, it is worth nothing that according to Regulation No. 2016/679 of the European Parliament and of the Council issued on 27 April 2016[7], *"the protection of natural persons in relation to the processing of personal data is a fundamental right".* Also Regulation No. 2016/679 set up the right called "*Right to be forgotten",* in order to help the data owner to better manage their data, consequently, "*people will be able to delete their data if there are no legitimate grounds for retaining it".*

According to Janice Phaik, in the absence of express legislation or regulations of consumer privacy and security regarding wearables, "*industry solutions can step in to help safeguard privacy and security"*[8]. The Chairwoman of the Federal Trade Commission has pointed out that companies can protect consumer privacy and security by (i) adopting security by design, (ii) engaging in data minimization, and (iii) increasing transparency and providing consumers with notice and choice for unexpected data uses.[9] This might be the opportunity for the industry to walk together with data owners, by protecting them and giving them the option to access, transfer and delete their personal data from company registries at their will.

Countries like México, Argentina, Chile, Peru, Honduras, Costa Rica, Panamá provide definitions regarding personal data and sensitive personal data and prior consent of the data owner, but do not, as well as Venezuela, provide specific regulations on data collected, stored, and processed in wearables.

Considering the aforementioned, and the vast legal implications of using, storing, collecting and processing data through "wearables devices", a possible solution might be enacting a specific regulation to safeguard and protect the data. However, said regulation should balance the data owner needs vs the needs of the law and regulator makers. Regulation

3 See Symantec Research.

4 Phaik Lin Goh, Janice, "Privacy, Security, and Wearable Technology", 2015, ABA Section of Intellectual Property Law, Volume 8, Number 2, by the American Bar Association. Available at: http://www.americanbar.org/content/dam/aba/publications/landslide/2015-november-december/ABA_LAND_v008n02_privacy_security_and_wearable_technology.authcheckdam.pdf

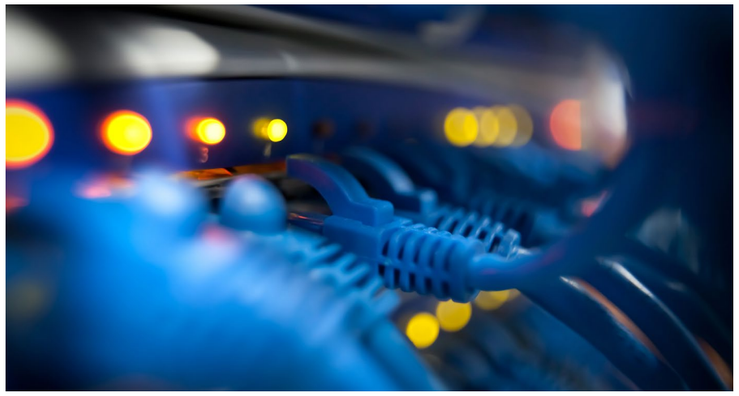
5 Constitutional Chamber of the Supreme Court of Justice, Decision No. 332, dated March 14, 2001. Available at: http://historico.tsj.gob.ve/decisiones/scon/marzo/332-140301-00-1797%20.HTM

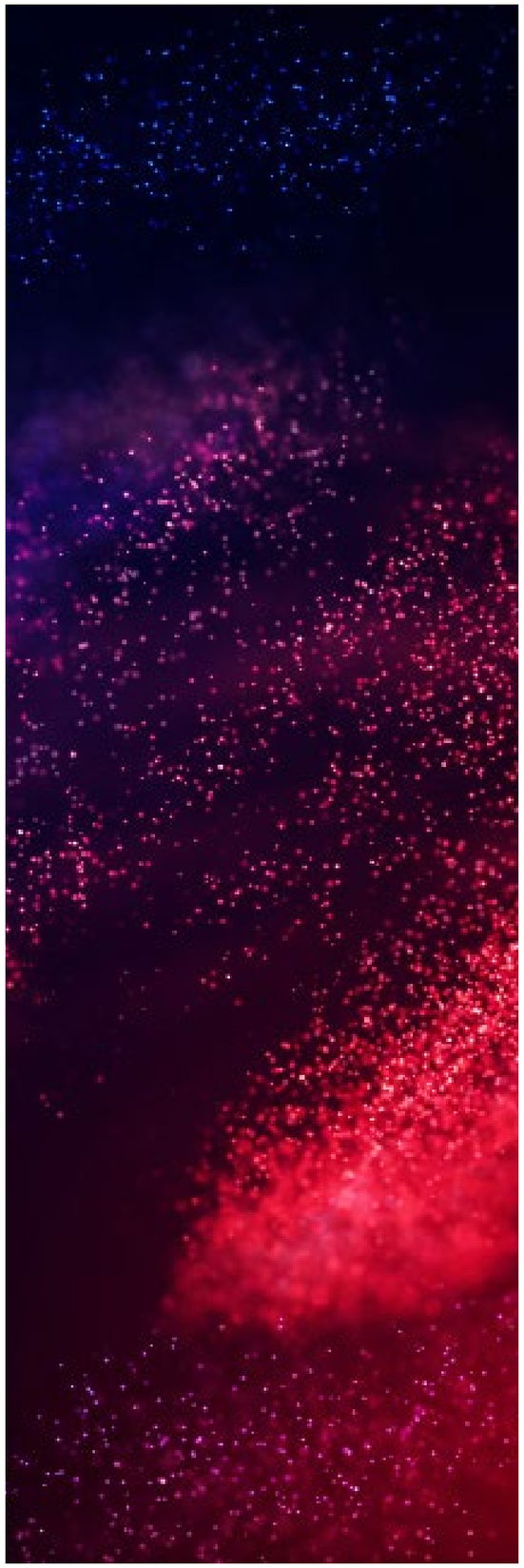
6 Constitutional Chamber of the Supreme Court of Justice, Decision No. 1318, dated August 4, 2011. Available at: http://historico.tsj.gob.ve/decisiones/scon/agosto/1318-4811-2011-04-2395.html

7 Regulation No. 2016/679 of The European Parliament and of the Council issued on 27 April 2016. Available at: http://eur-lex.europa.eu/eli/reg/2016/679/oj

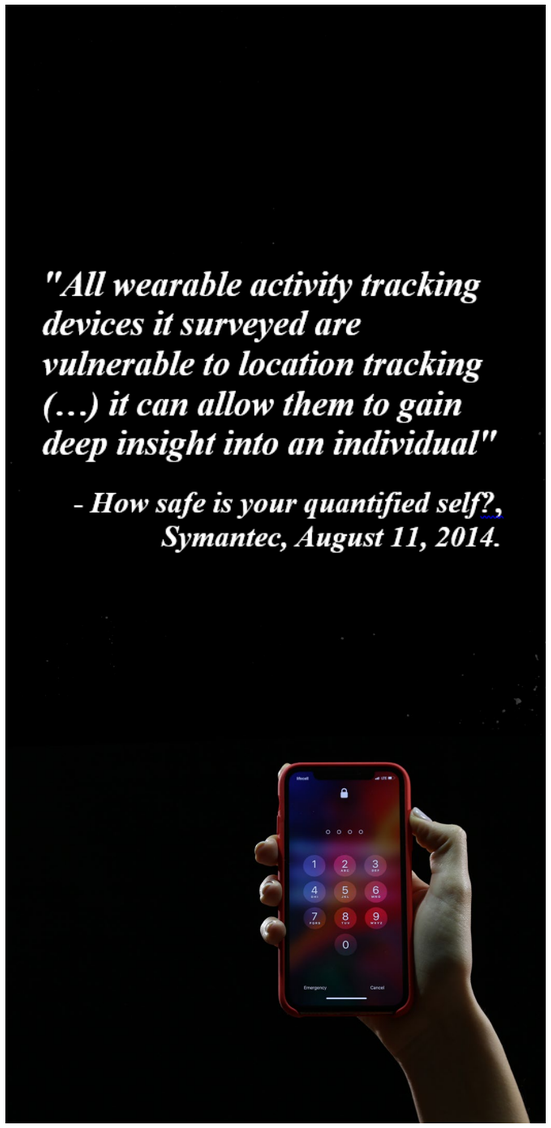
8 Phaik Lin Goh, Janice, *Privacy, Security, and Wearable*…ob. cit., supra note 5.

9 Ramirez, Edith, "Privacy and the IoT: Navigating Policy Issues International Consumer Electronics Show", Las Vegas, Nevada January 6, 2015, Opening Remarks of FTC Chairwoman. Available at: https://www.ftc.gov/system/files/documents/public_statements/617191/150106cesspeech.pdf





on data should be as open as possible, but at the same time, should provide data owners with high security technological standards that providing them with enough protection over their sensitive information. Notably, a proposed regulation to safeguard wearable devices should be strengthened, in order to (i) provide the collection of information in a more transparent pattern; (ii) secure the transmission of personal information, avoiding unknown third parties reaching personal information and damaging the data owner' privacy rights, (iii) update the legal framework including more specific regulations in order to protect the personal, sensitive and personal data in a practical way; and (iv) provide more information about the entity responsible of collecting the information.



El Derecho Público en el Derecho Internacional Privado

*María Alejandra Ruiz Gómez**

Abstract: *Issues of Private International Law have been widely discussed by scholars. However, due to the State's intervention in a significant way on people's lives, several authors have considered the possibility of studying cases subject to Public Law that have legally relevant foreign elements as part of the scope of Private International Law.*

Palabras claves: Derecho Internacional Privado; Derecho Público; Estado; DerechoPrivado.

El incremento de las relaciones jurídicas con elementos de extranjería relevantes aunado a la indudable intervención del Estado en la vida de las personas, da lugar a un sinfín de situaciones que ameritan una necesaria cooperación entre el Derecho Internacional Privado y el Derecho Público. Lo anterior es debido a que la vida de las personas no se encuentra regida exclusivamente por normas de Derecho Privado[1]. En este sentido, se ha dicho que *"uno de los rasgos actuales del tráfico externo es que la noción de situación privada internacional ha experimentado un fuerte proceso de revisión como consecuencia de la incidencia del Derecho Público en todos los sectores del ordenamiento jurídico*"[2]

Esta es una temática que puede ser considerada de relativa nueva data dentro del Derecho Internacional Privado, ya que no fue sino hasta el siglo XX que comenzó

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1 Perez Beviá, José Antonio, "La aplicación del Derecho Público extranjero", Madrid, Civitas, 1989, pp. 32 y ss. Citado en: Feuillade, Milton C., "Aplicación del derecho público extranjero", 2012, Prudentia Iuris, 73, p. 88. Disponible en: http://bibliotecadigital.uca.edu.ar/repositorio/revistas/aplicacion-derecho-publico-extranjero.pdf www.bibliotecadigital.uca.edu.ar.

2 Fernandez Rozas, José Carlos, "Tráfico jurídico externo y Sistema de Derecho Internacional Privado", 1985, Editorial Gráficas Valdés, p. 40. Citado en: Feuillade, Milton C., "Aplicación del derecho público extranjero", 2012, Prudentia Iuris, 73, p. 90.

a dársele relevancia[3], en virtud de un fuerte arraigo a la tesis doctrinal que sostiene que el Derecho Internacional Privado *aspira a reglamentar las consecuencias de Derecho privado de las relaciones y situaciones privadas con elementos extranjeros jurídicamente relevantes*[4]. En otras palabras, solamente regula las relaciones jurídicas privadas. No obstante, se explica que ello se debe a razones históricas, ya que los privatistas fueron los primeros en abordar el problema de las relaciones y situaciones conectadas con una pluralidad de ordenamientos jurídicos[5], asociado al afán de diferenciarse totalmente del Derecho Internacional Público.

Empero, siguiendo otra opinión, se afirma que eran tantos los puntos en común y las necesidades mutuas, que dicha ruptura además de no poder ser total, dejó incoherencias y contradicciones, a tal punto, que en la actualidad la presencia del Derecho Público se hace cada vez más fuerte, abarcando la totalidad de temas posibles, como el de los Derechos Humanos, el Derecho de las Inversiones, el Derecho Bancario Internacional, el Derecho Financiero, el Derecho Comercial Internacional, entre otros. Es por ello que, si bien el Derecho Público para el momento del nacimiento de esta rama podía ser prescindible, hoy en día su presencia se hace inevitable. [6]

Lo descrito ha influenciado directamente al Derecho Internacional Privado como rama autónoma, al grado de causar un impacto determinante en su contenido, en virtud de la necesidad de actualización de la conexión entre el Derecho Público y el Derecho Privado en el marco de las relaciones con elementos de extranjería.

Adolfo Miaja de la Muela señal**ó** que no existe unanimidad en la doctrina acerca de las materias que el Derecho Internacional Privado comprende, sin embargo, hay una cuestión centra: el denominado conflicto de leyes[7]. Es por ello que podemos observar diversidad de autores y leyes con distintas concepciones sobre el contenido del Derecho Internacional Privado. Recientemente se ha dicho que las materias que componen el contenido del Derecho Internacional Privado son tres: la competencia judicial (o jurisdicción) internacional, el derecho aplicable a las situaciones privadas internacionales, y la eficacia extraterritorial de actos y decisiones extranjeras,[8] esta última como parte del tema más amplio de la cooperación jurídica transfronteriza.

3 Feuillade, *Aplicación del derecho público*…, ob. cit., p. 90.

4 Carrillo Salcedo, Juan Antonio, "*Derecho Internacional Privado. Introducción a sus problemas fundamentales"*, Madrid, 1978, 2° edición, Editorial Tecnos, pp. 31 y ss.

5 Carrillo Salcedo, *Derecho Internacional Privado. Introducción*…, ob. cit., pp. 32 y ss.

6 Fernández Arroyo, Diego, "El Derecho Internacional Privado en el Diván - Tribulaciones de un ser complejo" en: *Derecho Internacional Privado. Libro Homenaje a Roberto Ruiz Díaz Labrano*, Asunción, Paraguay, 2013, Centro de Estudios de Derecho, Economía y Política, pp 20 y ss.

7 Miaja de la Muela, Adolfo, *"Derecho Internacional Privado: Introducción y parte general",* Madrid, 1976, Editorial Atlas, pp. 11 y ss.

8 Álvarez Londoño, Luis Fernando/ Galán Barrera, Diego Ricardo, "*Derecho Internacional Privado",* Bogotá, 2001, Pontificia Universidad Javeriana, pp 59 y ss.

Por su parte, la profesora Tatiana B. de Maekelt indic**ó** que el *contenido fundamental* del Derecho Internacional Privado consiste en la solución de supuestos con elementos extranjeros jurídicamente relevantes mediante la aplicación del derecho material respectivo, normas de conflicto para resolver el llamado conflicto de leyes, normas procesales para resolver el llamado conflicto de jurisdicciones y las normas de *lex fori* para asegurar la eficacia extraterritorial del actos emanados de autoridades extranjeras.

Dichas tesis son las comúnmente señaladas y estudiadas por la doctrina, no obstante, otros autores propugnan la extensión del contenido, no solamente al Derecho Civil Internacional, sino también al Derecho Penal Internacional, Derecho Social y el Derecho Administrativo Internacional;[9] tema que se ha convertido en "una de las cuestiones m**á**s interesantes y controvertidas suscitadas en la doctrina"[10].

En virtud de ello, Adolfo Miaja de la Muela, cuestionó si caben dentro del Derecho Internacional Privado, asuntos de naturaleza pública; tales como las penales, procesales, laborales, administrativas o fiscales, ya que *"en cada una de estas esferas se presentan relaciones humanas con elementos conectados a diferentes legislaciones, hecho que milita en favor del ensanchamiento del ámbito del Derecho Internacional Privado a la regulación de situaciones de carácter público dentro de las legislaciones internas".* [11]

9 De Maekelt, Tatiana B, *"Teoría General del Derecho Internacional Privado"*, Caracas, 2014, 2da edición, Academia de Ciencias Políticas y Sociales. Serie Estudios, pp. 10 y ss.

10 Dolinger, Jacob, "*Direito Internacional Privado (Parte General)"*, Río de Janeiro, 1996, 4ta edición, Renovar, pp. 16. Traducción libre de las palabras del autor.

Autores como Batiffol, plantean que las materias conectadas estrechamente con el Derecho Público no pueden formar parte del Derecho Internacional Privado puesto que únicamente existen las normas de conflicto en el Derecho Privado, las cuales prevén la aplicación de leyes extranjeras, mientras que en el Derecho Público, aunque exista algún elemento conectado con una legislación extranjera "*no es posible sustraerse a esta alternativa: si la ley extranjera es aplicable, el juez para quien esta ley resulta distinta de la suya será incompetente; si por el contrario, el juez es competente, la presencia de un elemento extranjero en la relación humana a él sometida no le conduce a la aplicación de una ley distinta al foro*". Por lo tanto, para este autor no es posible aplicar una legislación material distinta a la del foro, ya que en las relaciones jurídicas de carácter público "no se aprecian otros elementos que un sujeto y un acto que castigar o gravar". En consecuencia, no se presentarían conflictos de leyes, sino un problema de delimitación del campo de aplicación de las leyes en el espacio. [12]

Tomando en cuenta que la doctrina está de acuerdo en considerar a la aplicación de las leyes extranjeras como una de las materias fundamentales, aunque no única del Derecho Internacional Privado, se llega a la conclusión que al no poder plantearse un conflicto de leyes y al no existir la posibilidad de aplicar una ley extranjera, estos casos no pueden enmarcarse dentro del contenido del Derecho Internacional Privado.

No obstante, otros autores como Franz Despagnet[13], J. J. G. Foelix[14] y Antonio Sánchez de Bustamante defienden la inclusión del Derecho Público dentro del Derecho Internacional Privado, específicamente del Derecho Penal. En un sentido más amplio, el autor Vareilles Sommieres sostiene que el Derecho Internacional Privado es un "pot-pourri" que contiene elementos de todas las áreas del derecho[15] y de igual forma, Vallindas y Zweigert defienden la concepción de que el Derecho Internacional Privado se proyecta sobre todas las ramas del Derecho Público. [16]

11 Miaja de la Muela, Adolfo, *Derecho Internacional Privado*…ob. cit. pp. 16 y ss.

12 Batiffol, Henri, *"Droit international privé"*, Paris, 1974, p. 317. Citado en Miaja de la Muela, Adolfo, *Derecho Internacional Privado*…ob. cit., pp. 16 y ss.

13 Despagnet, Franz, *"Precis de Droit International Privé"*, p. 19. Citado en: Dolinger, Jacob, *Direito Internacional*…ob.cit., pp. 17 y ss.

14 Foelix. J. J. G., *"Traité du Droit Internatioanal Privé ou du conflict des lois de différentes nations, en matiére de droit privé"*, p. 2. Citado en: Dollinger, Jacob, *Direito Internacional*…ob. cit., pp. 17 y ss.

15 Sommières, Vareilles, *"La Synthese du Droit International Privé".* Citado en: Dolinger, Jacob, *Direito Internacional*…ob. cit., pp. 17 y ss.

16 Vallindas, Petros, *"Droit International Privé "latu sensu" ou "strictu sensu"*, pp. 509 y ss.; Zweigert, Konrad, *"Droit international privé et Droit public"*, pp. 645 y ss. Citados en: Miaja de la Muela, Adolfo, *Derecho Internacional Privado*…ob. cit., pp. 17 y ss.

Los detractores de esta tesis señalan que las situaciones jurídicas regidas por el Derecho Público no conducen a la elección de un derecho aplicable y por lo tanto, no pueden ser considerados para formar parte del contenido del Derecho Internacional Privado. **Los que defienden su inclusión** se enfocaron en rebatir dichas ideas señalando que es cierto que, en principio, las relaciones con elementos de extranjería jurídicamente relevantes que pertenecen al Derecho Privado conducen al cuestionamiento de la aplicación del derecho del foro o de un derecho extranjero, mientras que la presencia de elementos de extranjería jurídicamente relevantes en relaciones regidas por Derecho Público "sólo suscitan en apariencia una complicación en la aplicación del Derecho del foro." No obstante, esta complicación en su aplicación sólo es en principio y en apariencia, "*porque nada impide que en relación con normas de Derecho Público se suscite un problema de elección del Derecho Aplicable, llegándose incluso a la eventual aplicación de normas de Derecho Público extranjero*". [17]

El argumento principal para sostener lo anteriormente señalado es que cuando se declara aplicable un determinado derecho por la norma indirecta, no sólo deben analizarse las normas de derecho privado sino el ordenamiento jurídico extranjero como un todo, ya que lo contrario podría conducir contradicciones. Así, cuando un determinado contrato tiene prohibiciones de tipo fiscales, de control de cambio o exportaciones si sólo se toma el Derecho Civil, todos los demás aspectos, bien sean, políticos, económicos, sociológicos, y axiológicos que tomó en cuenta el legislador para el caso determinado estarán siendo ignorados.[18]

La problemática descrita y la diversidad de opinión sobre el tema ha afectado el actuar de los jueces al encontrarse frente a un caso de Derecho P**úblico con elementos de extranjería, declinando en la mayoría de los casos su competencia, o en el caso de aceptarlo, evitando** en lo mayor posible la aplicación de normas de Derecho P**úblico extranjero que pudiesen brindarle una justicia material al caso en concreto. Así, el autor Carrillo Salcedo señala:**

> "*Lo que ocurre es que, a falta de una norma jurídica clara en la materia, los tribunales se sienten inclinados a declinar su competencia, por la inercia de la creencia tradicional (territorialidad de derecho público y pretendido principio de inaplicabilidad del Derecho Público extranjero) y por falta de interés*[19]"

Sigue indicando este autor que "nada impide, salvo una norma convencional, que el Estado del foro admita la competencia de sus tribunales para juzgar sobre tales pretensiones de Derecho Público formuladas por autoridades extranjeras".[20] En igual sentido, los autores señalan que no se trata ni de la territorialidad ni de la diferencia en la naturaleza de las normas (la falta de normas de conflicto), lo que impide que los tribunales conozcan sobre estos asuntos, sino "la falta de interés de los órganos judiciales de un Estado en cooperar a los deseos de los otros".[21]

Ante esta situación, el Instituto de Derecho Internacional se vio en la necesidad de adoptar una resolución en fecha 11 de agosto de 1975,[22] en la que se estableció que el Derecho Público extranjero debe ser aplicado incluso si no se refiere a la protección de los intereses de los particulares sino a servir principalmente al interés del Estado, en virtud de que: "El pretendido principio de inaplicabilidad a priori del Derecho Público extranjero, así como el de su absoluta territorialidad, principio invocado, sino aplicado por la jurisprudencia y la doctrina de varios países: i) no está fundado en una razón teórica o práctica válida ii) se solapa a menudo con los principios de orden público iii) es susceptible de ocasionar resultados poco deseables y poco conformes con las actuales exigencias de la colaboración internacional."[23]

Esta resolución es una muestra de como se dejan atrás los argumentos utilizados para sostener la exclusión de casos de derecho público con elementos de extranjería del ámbito del Derecho Internacional Privado e indudablemente el principio del fin de la tesis de la territorialidad, en aras de promover una verdadera cooperación internacional.

17 Carrillo Salcedo, Juan Antonio, *Derecho Internacional Privado*… ob. cit., pp. 35 y ss.

18 Feuillade, Milton C., *Aplicación del derecho público extranjero* … ob. cit., p. 99 y ss.

19 Carrillo Salcedo, Juan Antonio, *Derecho Internacional Privado*… ob. cit., p. 36.

20 Carrillo Salcedo, Juan Antonio, *Derecho Internacional Privado*… ob. cit., p. 36.

21 Pérez Beviá, José Antonio, "*La aplicación del Derecho Público extranjero"*, Madrid, Civitas, 1989, p. 3118. Citado en: Feuillade, Milton C., *Aplicación del derecho público extranjero* …ob. cit., p. 102.

22 Consultado en: http://www.justitiaetpace.org/idiE/resolutionsE/1975_wies_04_en.pdf.

23 Institut de Droit International – Annuaire, Pierre Lalive, *"L'application du droit public* étranger – *Rapport définitif et projets de résolutions"*, Session de Wiesbaden, 1975, Vol. 56, págs. 219 a 278 Citado en: Feuillade, Milton C., *Aplicación del derecho público extranjero* …ob. cit., p. 91.

Amendments to the New Assets Tax in Venezuela

Ronald Evans Márquez,, José P. Barnola (Jr.) **, Oscar Morean*** and David Mongiovi*****

Resumen: *En julio 2019, la Asamblea Nacional Constituyente (ANC) dictó una Ley Constitucional que creó un impuesto a los grandes patrimonios de 0,25% en todas las inversiones de personas jurídicas o naturales designadas como contribuyentes especiales. En agosto del mismo año, la ANC mediante un Aviso Oficial notificó la reimpresión por "error material" de la Ley en la Gaceta Oficial número No. 41.696 el 16 de agosto de 2019, la cual modificó sustancialmente las disposiciones establecidas en la Ley. El presente artículo tiene por objeto analizar la pretensión de la aplicación retroactiva de la Ley para el período iniciado el 1ro de octubre de 2018 y que culminó el 30 de septiembre de 2019, la aplicación retroactiva de la Providencia No. SNAT/2019/00213, así como la comparación de la Ley y los cambios sustanciales introducidos en el Aviso.*

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Key words: taxes; new assets; retroactivity; Notice; Constitutional Law; amendments.

1. Introduction

In July 2019, the National Constituent Assembly ("ANC") approved the *"Constitutional Law that created the high net worth tax"* ("Law") (see New Assets Tax in Venezuela). The Law created a tax of 0,25% ("Tax") on all assets of individuals and legal entities that the National Integrated Service of Customs and Tax Administration ("Service") has designated as special or big taxpayers ("Special Taxpayers").

On August 16, 2019, the ANC, through an Official Notice, ordered the reprint of the Law in the Official Gazette due to a "material error" of the Law (Official Notice, Official Gazette No. 41.696 of August 16, 2019) (the ''Notice''). We have assumed that the Notice may be of practical application, considering that the decisions adopted by the ANC have been implemented. The Supreme Court of Justice has recognized the legal power and authority of the Assembly to issue decrees with the force of law. However, the matter is debatable and there are important arguments to sustain the unconstitutionality and illegality of the acts dictated by the ANC.

The Notice intends to apply the law retroactively for the tax period that started on October 1, 2018 and closing on September 30, 2019, even though by the beginning of that tax period the Law was not in force. The National Integrated Service of Customs and Tax Administration ("Service") issued Administrative Guideline No. SNAT/2019/00213, related to the "Rules regarding the value update of assets and the requirements and formalities for the filling and payment of the tax" (*Normas de Actualización del Valor de Bienes y Derechos, así como los Requisitos y Formalidades para la Declaración y Pago del Impuesto a los Grandes Patrimonios*, Official Gazette No. 41.697 of August 19, 2019) ("Administrative Guidelines"). The Administrative Guidelines also intend to apply the Tax retroactively.

Following is a summary of the Notice and the Administrative Guidelines.

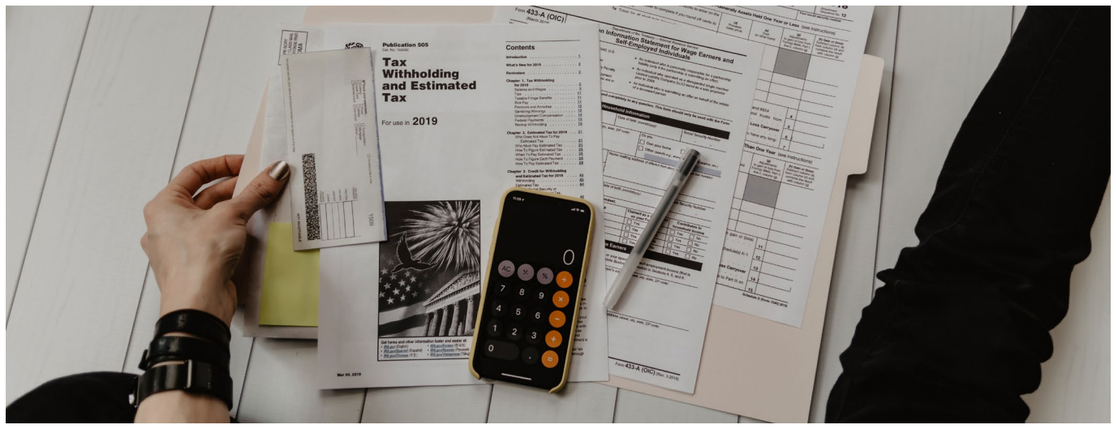
2. Modifications of the Notice

According to the Law of Official Publications, the reprint of a law occurs when there are discrepancies between the original and its publication (Article 4). The reprint should be published with a notice indicating the error of the original publication. The law will be deemed promulgated since its first publication (with the Law, July 3, 2019), but it may not apply retroactively.

The Notice indicated that a material error had occurred, when there were twelve. The modifications of the Notice are mostly substantial and exceed simple material errors. The Notice:

(a) Eliminated the distinction between individuals and legal entities regarding the minimum net worth threshold to be subject to the Tax: 36,000,000 Tax Units ("TU") for individuals and 100,000,000 of Tax Units ("TU") for legal entities. Now, legal entities and individuals designated by the Service as Special Taxpayers, whose net worth is equal to or greater than 150,000,000 TU (VES 7,500,000,000 or USD 333,423.57), will be subject to the Tax (as of November 5, 2019, the value of the TU is VES 50 and the exchange rate is VES 22,493.91 per USD).

(b) Modified the tax residence presumption of Article 6(1), constraining it to consider as Venezuelan residents only those taxpayers that remain in Venezuela for a continuous or discontinuous period greater than 183 days of the tax period, not including the immediate prior year.



(c) In an attempt to apply the tax retroactively to the tax period that started on October 1, 2018 and will close on September 30, 2019, it modified Article 11, establishing that the taxable event will be occurred on September 30 of each year, and not on the closure of each calendar year, and that the first tax period will close on September 30, 2019. The Constitution and the Organic Tax Code, however, establish that: (i) the rules regarding the existence and quantum of the tax obligation of taxes paid by periods, such as the Tax, apply to the tax period that starts after the law has entered into force (V. Constitution, Article 317, Organic Tax Code, Article 8 and Constitutional Chamber of the Supreme Court of Justice, decision No. 1.252 of June 30, 2004, *in re* José Andrés Romero Angrisano); (ii) no tax law may have retroactive effects, unless it suppresses or reduces sanctions that favor the offender. Consequently, the Tax should apply to the tax period starting on October 1, 2019, and not earlier.

(d) Added the paragraph 10 to Article 13, which exempts form the Tax the property in Venezuela, belonging to foreign diplomatic and consular missions, to the extent and with the limitations established by the applicable international agreements and subject to reciprocity.

(e) Eliminated the maximum amount of exemption on property registered as "the main abode" (*vivienda principal*) before the Service (64,000,000 TU).

(f) Eliminated the second paragraph of Article 15 of the Law, which limits the payment of the Tax to portion exceeding the legal threshold, as established in Article 1. Therefore, it could be interpreted that the taxable base was increased, which now is the whole "net worth" and not only the portion exceeding the threshold (*i.e.* 150,000,000 TU) established in Article 1.

(g) Modified Article 17 of the Law, establishing that, to determine the value of any property located abroad, it will apply the higher value resulting from the tax regulations of the country where the property is located, or stock exchange listings by September 30 of each year.

(h) Modified Articles 18 and 19 of the Law, establishing that: (i) to determine the value of property rights from timesharing, or similar contracts, the higher value will apply between the acquisition price and the market price by September 30 of each year; (ii) the value of shares, jewelry, art objects and antiques, will be computed by the higher value between the current market price of the asset and its acquisition price, according to the updated standards that the Service issues, and current market value by September 30, of each year.

(i) Modified Article 24 of the Law and established that the Tax will be caused annually upon the value of the net worth by September 30 of each year.

3. Comparison of the Law v. the Notice.

The following chart compares the Law and the Notice:

Article	Law	Notice
1	A tax is created, that applies to the net worth of the taxpayers whose assets are equal to or greater than 36,000,000 Tax Units ("TU") for individuals and 100,000,000 TU for legal entities. **[Deleted paragraph]** Individuals and legal entities must pay the tax for the portion of the net worth that exceeds the amounts stated in the heading of this article.	A tax is created, that applies to the net worth of the taxpayers such as individuals and legal entities, designated as special taxpayers by the Service, and whose assets are equal or greater to one hundred fifty million tax units (150,000,000 TU).

6	An individual, qualified as a special taxpayer, is considered to have his residence in the country when the following situations occur: 1. Remains in the country for a continuous or discontinuous period, exceeding one hundred eighty-three (183) days in a calendar year, or in the year immediately preceding the period to which the tax corresponds. 1. The main place of its economic activities or interests, directly or indirectly, is in the country. 2. Has a Venezuelan nationality and is a public officer or stater worker, even if the main nucleus or base of its economic activities or interests is abroad. **[Format change]** Have a Venezuelan nationality and prove your new tax residence in a country or territory qualified as having low taxation, in the terms provided in the national legislation that regulates the taxation of income, unless said country or territory have a broad agreement to exchange tax information with Venezuela.	An individual, qualified as a special taxpayer, is considered to have his residence in the country when the following situations occur: 1. Remains in the country for a continuous or discontinuous period, exceeding one hundred eighty-three (183) days in a calendar year, or in the year immediately preceding the period to which the tax corresponds. 2. The main place of its economic activities or interests, directly or indirectly, is in the country. 3. Has a Venezuelan nationality and is a public officer or State worker, even if the main nucleus or base of its economic activities or interests is abroad. 4. Have Venezuelan nationality and prove their new tax residence in a country or territory qualified as low taxation, unless said country or territory has entered into a comprehensive tax information exchange agreement with Venezuela.
7	It is presumed that an individual, designated by the Service as a Special Taxpayer, is resident in Venezuela when: 1. Has established its permanent home or main place of abode in Venezuela. 2. Has the Venezuelan nationality. 3. His spouse or children (dependents) have permanent home or main place of abode in Venezuela or the Venezuelan nationality, according to the established criteria in paragraphs 1 and 2 of this Article. 4. **[Format Change]** In the foreseen cases of paragraphs 1 and 2, of this Article, a certificate issued by foreign competent authorities, is the only thing subject to proof to the contrary.	It is presumed that an individual, designated by the Service as a Special Taxpayer, is resident in Venezuela when: 1. Has established its permanent home or main place of abode in Venezuela. 2. Has the Venezuelan nationality. 3. His spouse or children (dependents) have permanent home or main place of abode in Venezuela or the Venezuelan nationality, according to the established criteria in paragraphs 1 and 2 of this Article. In the foreseen cases of paragraphs 1 and 2 of this Article, a certificate issued by foreign competent authorities, is the only thing subject to proof to the contrary.
11	It is understood that the taxable event occurs on the last day of the respective tax period, under this Constitutional Law.	It is understood that the taxable event occurs on September 30, of each year.

13	Are exempt from the tax: 1. The Republic and other political. Territorial entities. 2. The Central Bank of Venezuela. 3. The functionally decentralized entities. 4. The main house, registered as such before The Service, up to a value of sixty-four million Tax Units (64,000,000 TU) 5. The domestic trousseau, which includes personal and household effects, household utensils and other personal property of the taxpayer's private use, except for good referred to in this law. 6. Social benefits and other benefits derived from labor relations, including contributions and returns from savings funds and savings banks of workers. 7. The property and communal property rights. 8. The assets invested in primary agricultural, livestock, aquaculture, fish farming and fishing activities, as long as they constitute the taxpayer's main activities. 9. The work of artists while they are property of the author.	Are exempt from the tax: 1. The Republic and other political. Territorial entities. 2. The Central Bank of Venezuela. 3. The functionally decentralized entities. 4. The main house, registered as such before The Service. 5. The domestic trousseau, which includes personal and household effects, household utensils and other personal property of the taxpayer's private use, except for good referred to in this law. 6. Social benefits and other benefits derived from labor relations, including contributions and returns from savings funds and savings banks of workers. 7. The property and communal property rights. 8. The assets invested in primary agricultural, livestock, aquaculture, fish farming and fishing activities, as long as they constitute the taxpayer's main activities. 9. The work of artists while they are property of the author. 10. **[Added]** Property in the country, belonging to foreign diplomatic and consular missions, to the extent and with the limitations established by the applicable international agreements and subject to reciprocity.
15	The taxable base of the tax created in this Constitutional Law shall result from adding up the total value of the goods and rights, under the rules established in these articles, excluding the value of the charges that fall on the goods and the exempt or exonerated goods and rights. **[Deleted paragraph]** Individuals and legal entities must pay the tax for the portion of the net worth that exceeds the amounts stated in Article 1 of this Constitutional Law.	The taxable base of the tax created in this Constitutional Law shall be the result from adding up the total value of the goods and rights, under the rules established in these articles, excluding the value of the charges that fall on the goods and the exempt or exonerated goods and rights.

17	To determine the value attributable to real estate located abroad, the higher of the tax rules of the country in which it is located or the current market price at the end of each tax period.	To determine the value attributable to real estate located abroad, the higher of the tax rules of the country in which it is located or the current market price by September 30 of each year.
18	The value of property rights from timeshare, or similar contracts shall be the greater than the acquisition price and the market price listed at the end of the tax period.	The value of property rights from timeshare, or similar contracts shall be the greater than the acquisition price and the market price by September 30 of each year.
19	Shares and other holdings in trading companies, including those issued in foreign currency, listed on stock exchanges or organized markets shall be valued at their closing price at the end of each tax period. Shares and other ulisted participations will be computed at the resulting value from dividing capital stock, adding the reserves in the last balance sheet approved at the close of the income tax period by the number of titles, shares or participations representing it.	Shares and other holdings in trading companies, including those issued in foreign currency, listed on stock exchanges or organized markets shall be valued at their closing price on September 30 of each year. Shares and other unlisted participations will be computed at the resulting value from dividing the capital stock, adding the reserves in the last balance sheet approved at the close of the income tax period by the number of titles, shares or participations representing it.
20	Jewelry, art objects and antiques, will be computed by the higher value that results between the current market price of the asset and its acquisition price updated according to the updating standards that the Service issues, and current market value at the end of the tax period.	Jewelry, art objects and antiques, will be computed by the higher value that results between the current market price of the asset and its acquisition price updated according to the updating standards that the Service issues, and current market value by September 30, of each year.
24	The Tax will be caused annually on the net worth value at the close of each tax period. The taxation period will be exceptionally concluded when: 1. The individual dies. 2. The legal entity is extinguished. 3. There is a change of residence abroad of the legal entity. **[Format Change]** When the legal entity is transformed so its tax treatment changes or is subject to a special tax regime.	The Tax will be caused annually on the net worth value by September 30 of each year. The taxation period will be exceptionally concluded when: 1. The individual dies. 2. The legal entity is extinguished. 3. There is a change of residence abroad of the legal entity. 4. When the legal entity is transformed so its tax treatment changes or is subject to a special tax regime.
25	**[Deleted article]** Individuals and legal entities whose assets have a value equal to or greater than one hundred and fifty Tax Units (150,000,000 TU) must file an informative return in the terms and forms determined by the Service.	Article deleted and the rest of the articles were renumbered.
26	The payment of the tax must be according to the terms forms determined by the Service.	Article 25: The return and payment of the tax must be according to the terms and forms determined by the Service.

4. Administrative Guidelines

The Administrative Guidelines came into force on August 19, 2019, establishing that:

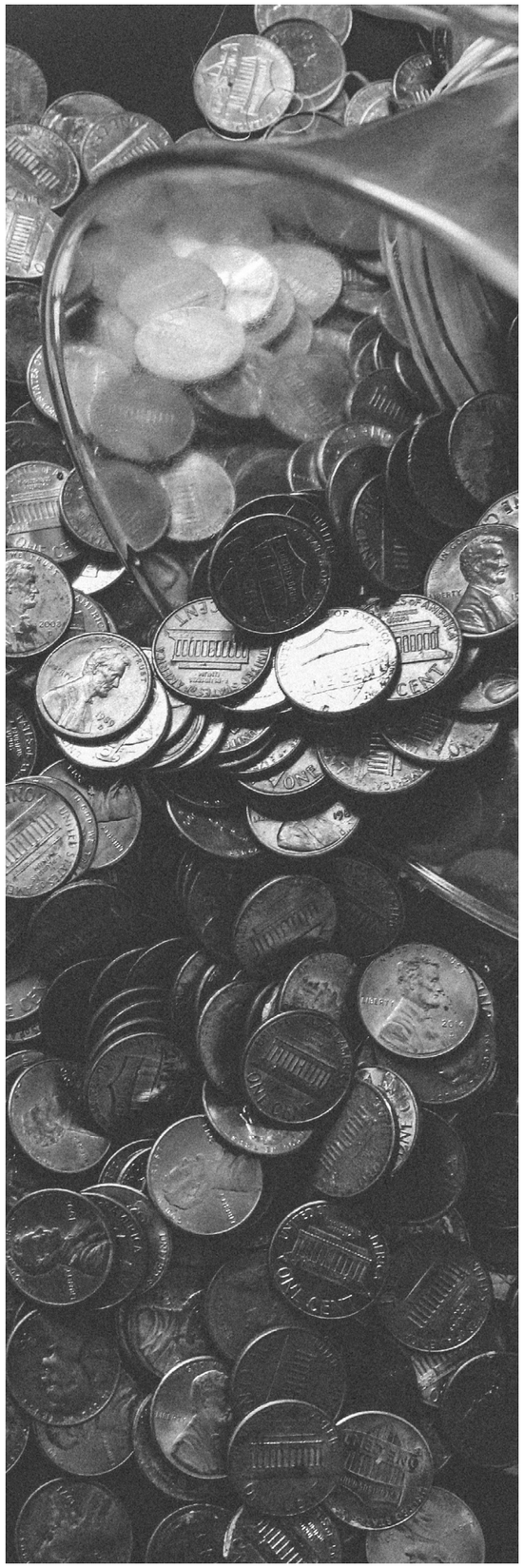
(a) The valuation rules of the assets, foreseen in the Law, are those published in the Service's webpage (www.seniat.gob.ve). As they constitute general administrative provisions, they should be enforceable only as of their publication in the Official Gazette (Official Publications Law, Article 9; Organic Tax Code, Article 9; Organic Law on Administrative Procedures, Article 72.)

(b) The Administrative Authorities of the Public Municipal Power must keep updated, the value of the municipal land registry in their jurisdiction.

(c) The first tax period of the Tax started on October 1, 2018 and will close on September 30, 2019 and Taxpayers must file the return and pay the tax of said period by November 30, 2019.

(d) Taxpayers must file the return by November 30 of each year. For the first tax period return, taxpayers must use the net worth value they have at hand.

(e) Taxpayers must have available for the Service the documents, registries, market value, value of the municipal land registry (updated to the return) issued by the competent authority and other documents that support the value of the assets reported in the return.



Payment of Official fees at the Venezuelan Patent and Trademark Office

*Indira A. García Calles**

Resumen: *el pago de las tasas oficiales en moneda extranjera para trámites de marcas y patentes en Venezuela ha sido un tema de mucho interés para la comunidad de propiedad intelectual venezolana y extranjera, en virtud de que las limitaciones que se han presentado desde su implementación de las sanciones emitidas por el Gobierno de los Estados Unidos de América sobre el Gobierno de la República de Venezuela han sido difíciles de superar, y han provocado que se instaurara una forma de pago fuera de lo común y con muchos desafíos, tanto para los titulares de derechos intelectuales como para los agentes.*

Key words: trademarks; patent; official fees; Venezuela; sanctions.

Since 2015, Venezuela has been a special case for foreign Intellectual Property Right holders. This is because on May 05, 2015[1] the Venezuelan Patent and Trademark Office ("VE PTO") by means of an Official Notice established that by application of Article 6 of the Tax Stamp Law, the official fees for trademark and patent matters established in Bolivars must be paid exclusively in US Dollars calculated at the applicable exchange rate. This guideline was widely r jected by the Venezuelan Intellectual Property community. However, in order to protect the Intellectual Pro perty Rights, the holders and agents proceeded on an uninterrupted basis with the payment of the official fees in US dollars, although Venezuela is included in the list of the most expensive countries in the world to protect trademarks and patents.

On February 02, 2018, the VE PTO issued another Official Notice[2] suspending the payment of official fees until further notice and all proceedings (especially those with pending deadlines such as renewal applications and patent and trademark applications with foreign priority) were to be filed through a "*Statement of Intention of Payment*".

Almost a year after the issuance of that Notice, on February 01, 2019, the VE PTO issued a new Official Notice[3] establishing that the Official Fees for all trademark and patent proceedings to be filed at that Office would be paid in Petros[4] and that a period of 60 working days was granted to make payment of the official fees for trademark applications published in Official Bulletins Nos. 580 through 590.

This mechanism was widely rejected and criticized by the Venezuelan legal community since this last Official Notice was issued after the President of the United States of America issued Executive Order of March 19, 2018 prohibiting "*all transactions related to, provision of financing for, and other dealings in, by a United States person or within the United States, any digital currency, digital coin, or digital token, that was issued by, for, or on behalf of the Government of Venezuela on or after January 9, 2018 ...*".[5]

After several meetings between the Venezuelan Intellectual Property Association and Officers of the VE PTO, on April 10, 2019, the latter proposed that the payment of the official fees would be made through cash deposits at the Banco de Venezuela and BANDES. However, this turned out unfeasible because both institutions are Venezuelan State owned banks, expressly sanctioned by the Treasury Department as of March 22, 2019[6]. Thereafter, on May 08, 2019 the VE PTO allowed the payment of official fees for trademark and patent proceedings through cash deposits in euros or dollars at the Banco del Tesoro[7].

By means of Official Notice dated May 17, 2019[8], the VE PTO granted an extension of 20 working days for the payment of fees regarding all pending transactions filed after February 02, 2018, and included trademark and patent transactions published in the Industrial Property Bulletins Nos. 591 and 592.

On August 05, 2019 the United States Treasury Department through the Office of Foreign Assets Control issued General License No. 27 ("GL 27")[9], authorizing certain trademark, patent and copyright transactions. GL 27 authorizes transactions in connection with trademarks, patents and copyrights, and/or any other

1 Official Notice dated May 05, 2015. Available at: http://publicaciones.sapi.gob.ve/wpcontent/uploads/2015/06/avisos%20oficiales/avisoofi-cial_decreto1.398_07052015.pdf. Consulted on October 22, 2019.

2 Official Notice dated February 02, 2018. Available on: http://sapi.gob.ve/publicaciones/. Consulted on: November 06, 2019.

3 Official Notice dated February 01, 2019. http://sapi.gob.ve/publicaciones/. Consulted on: November 06, 2019. On March 29, 2019, the Trademark and Patent Authority issued an Official Notice stating that payments should be made for all unpaid proceedings submitted to that Office after February 02, 2018. The Constitutional Chamber of the Supreme Court of Justice (in exile) declared the application of Petro unconstitutional to pay the fees for intellectual property rights per Sentence dated July 16, 2019. Available at: https://drive.google.com/file/d/1Xg8fBPEbTUOwS5y312_zqNVFcPV3hDlj/view?usp=drivesdk. Consulted on: November 07, 2019.

4 The "*Constitutional Decree on Cryptoassets and the Sovereign Cryptocurrency Petro*" (Decree No. 3.355) was published in the Official Gazette of the Bolivarian Republic of Venezuela No. 6.371 Extraordinary, dated April 09, 2018. Petro's rating has not yet been determined, as the regulations governing it have described it, indistinctly both as a "cryptoasset" and as a "cryptocurrency".
A Venezuelan scholar notes that "If the provisions of the dictated legislation become a reality, that is, that Petro is actually issued and channeled through the blockchain, it could be said that it would qualify as a cryptoasset", Carmona Borjas, Juan Cristóbal, *"Legal World of Cryptocurrencies"*, Caracas, p. 264.
As for the "cryptocurrency" rating, the author goes on to review each of the characteristics of cryptocurrencies and compares them with the Petro and concludes, "Despite the existence of these differentiating notes between Petro and cryptocurrencies, it does however have certain points of coincidence that with the passing of time have increased. The rating of Petro as a traditional cryptocurrency is therefore doubtful, a topic that will have to continue to be monitored as a result of the instability that has characterized its regulatory treatment by the national government", p. 265.

5 Executive Order dated March 19, 2018 issued by the President of the United States of America Donald J. Trump Available on: https://www.whitehouse.gov/presidential-actions/executive-order-taking-additional-steps-address-situation-venezuela/

6 Treasury Department press release dated March 22, 2019. Available at: https://home.treasury.gov/news/press-releases/sm636. Consulted on: November 06, 2019.

7 The Government of the United States of America has not sanctioned this Bank; therefore, there is no prohibition to make payments through this Bank.

8 Official Notice dated May 17, 2019. Available at: http://sapi.gob.ve/publicaciones/ Consulted on: November 06, 2019.

9 General License No. 27. Available at: https://www.treasury.gov/resourcecenter/sanctions/Programs/Documents/venezuela_gl27.pdf. Consulted on date: November 06, 2019.

form of intellectual property protection, the renewal or maintenance of IP protections, the filing of trademark and patents oppositions or infringement proceedings and the defense of such proceedings; *i.e.,* GL 27 includes all proceedings that intellectual property right holders may exercise to protect their rights.

In addition, among others GL 27 authorizes the payment of fees to the Government of Venezuela and of "reasonable and customary fees and charges" to attorneys and legal representatives in connection with the above (except from blocked accounts). It is important to highlight that GL 27 does not authorize the filing with Venezuelan authorities of applications for assignment and/or licenses of trademarks, patents and/or of any other form of intellectual property protection.

On August 28, 2019, the VE PTO issued an Official Notice establishing the new payment mechanism for official fees "*anchored*" to the Petro, *i.e.* the calculation of official fees will be made through the Petro but the payment must be made through cash deposits in foreign currency at the Banco del Tesoro. In this way, *mutatis mutandi*, the Petro is used as a Tax Unit, in order to express the value of the rates in a uniform and adjustable manner over time[10].

It is important to point out that the issuance of GL 27 has been the confirmation that the method of payment established by the VE PTO is not prohibited by the Government of the United States of America and that the intellectual property right holders that want to maintain their trademarks and patents in Venezuela are and will be protected. However, there are still many obstacles the Intellectual Property Community must overcome in Venezuela, for this reason, holders and agents should be always attentive to the changes that may occur in the future and be prepared with an action plan for the protection of their rights under the laws and the Constitution.

Most recently Decree No. 4.096 issued by the President of the Republic on January 14, 2020 establishes that all Government entities that previously accepted payment of fees in a foreign currency, from now onwards, must only accept payment in Petros. The VE PTO has been silent since the publication of the Decree (it has not published an Official Notice nor offer verbal information to agents) and until this date, it has been accepting payments in a foreign currency at Banco del Tesoro.

10 Carmona Borjas, Juan Cristóbal, *Legal World of Cryptocurrencies*…ob. cit., p. 294.

De la Casa

Palabras de presentación de nuestro Socio Administrador Ronald Evans Márquez al Libro Homenaje al Profesor Eugenio Hernández-Bretón

El Dr. Humberto Romero-Muci, Presidente de la Academia de Ciencias Políticas y Sociales, me ha concedido el honor de presentar esta magna obra en homenaje a mi socio y amigo, Eugenio Hernández-Bretón. El éxito de la convocatoria, reflejado en la participación de 123 autores nacionales y extranjeros, da cuenta de la admiración y estima que genera Eugenio en el foro jurídico, tanto en Venezuela como en el exterior.

Al realizar una breve revisión de la obra, vemos reflejados muchos aspectos de la personalidad y de la producción intelectual de Eugenio Hernández Bretón. Me parece, sin embargo, que faltaban unas notas sobre el quehacer del homenajeado como abogado en ejercicio y su relación con Baker McKenzie; una simbiosis digna de ser reseñada por las influencias y enriquecimientos mutuos, pues Eugenio, de alguna manera, también es producto de las enseñanzas de una escuela llamada Baker Mckenzie, lugar al que ingresó de pasante y donde lleva ya unrecorrido vital de 41 años.

Eugenio vino al mundo en el umbral de la democracia venezolana, un 25 de abril de 1958. Realizó sus estudios de primaria y secundaria en el colegio San Ignacio de Loyola donde se gradúa en el año de 1976 (fue además miembro del Centro de Estudiantes desde 1971 a 1976). Es conocido el aprecio y conexión espiritual y cultural de Eugenio con su colegio y con los amigos que allí conoció. Mientras estudiaba le gustó practicar béisbol, tenis, pero también excursionismo y montañismo. Ese último hobby lo conserva hoy en día y lo practica constantemente, tanto así que muchas de las reuniones de socios en el extranjero aún las aprovecha para ir a escalar a sitios nuevos.

Eugenio ingresa a cursar estudios en la Universidad Católica Andrés Bello donde se gradúa de abogado con los máximos honores (s*umma cum laude*). De 20 años, y estando en el tercer año de la carrera, solicita su ingreso al Escritorio y comienza a trabajar como pasante a partir del 23 de noviembre de 1978 hasta el 30 de junio de 1981 y es inmediatamente contratado como abogado a partir del 1 de julio de 1981.

Los inicios en el Escritorio los dedica a realizar trabajos en el área de Derecho Civil, Mercantil, Administrativo y ya empieza a involucrarse en litigios internacionales. Como dato curioso, entre sus actividades extracurriculares, se hace cargo en 1981 de la sección "Cápsulas Legales" del programa de televisión que tenía el Ministerio de Educación y ya para ese entonces acreditaba conocimientos del idioma italiano e iniciaba estudios del alemán.

Con solo dos años de ejercicio profesional, Eugenio ya llama la atención de los socios por su curiosidad y acuciosidad intelectual. Nuestro homenajeado inicia un proceso de formación académica pocas veces visto entre los abogados venezolanos, dándose un recorrido jurídico por el Derecho anglosajón (Estados Unidos) y el Derecho continental (Francia y Alemania). Así, con el soporte financiero de la firma en Caracas, parte a los Estados Unidos donde realiza un Seminario en Derecho Americano en la Universidad de Yale durante el verano de 1982, en preparación para optar a la Maestría en Leyes (LL.M.) que imparte la Universidad de Columbia. Allí culmina sus estudios superiores en el año de 1983. Para esa época es miembro del Senado Estudiantil de la Escuela de Derecho, el cual le otorga un Certificado de Mérito y es además miembro activo de la Columbia Society of International Law.

El Escritorio estará siempre pendiente de Eugenio y lo apoyará en sus diversas incursiones académicas a lo largo de su carrera (cosa que pudiera parecer rara en un despacho "americano" por la fama mal ganada de pensar solo en las horas y en la productividad de sus abogados) y es así como el socio administrador de la época, Freddy Paván Valery, le escribe el 19 de noviembre de 1982, lo siguiente:

> Deseo aprovechar esta oportunidad para reiterarte lo más complacidos que hemos estado con el trabajo que has desarrollado hasta ahora con nosotros. Estamos seguros de que al concluir tu post-grado, estarás aún mejor capacitado para continuar desempeñándote exitosa y brillantemente como abogado y de que cuando regreses a Caracas tu aporte profesional y personal será uno de los más valiosos para continuar el crecimiento de nuestra firma y mantener nuestro liderazgo entre los bufetes de Venezuela. En el plano personal, estamos convencidos de que con tu capacidad y conocimientos tienes un gran futuro con Baker & McKenzie.

Palabras proféticas de Freddy Paván pues Eugenio es, sin lugar a dudas, el socio que más ha destacado en aportes jurídicos en la historia de nuestro despacho de abogados en Venezuela. Su perfil de jurista integral con dotes de abogado sobresaliente en el competitivo mundo del ejercicio profesional, en distintas áreas del Derecho, no ha podido ser igualado.

Pasada la experiencia estadounidense, Eugenio decide emprender estudios en Alemania y solicita una beca al Comité de Desarrollo Profesional de la Firma bajo el "Graduate Scholarship Program" la cual le es concedida el 15 de julio de 1987. David Yates, Director de Desarrollo Profesional de la Firma, así se lo comunica:

> Le estoy escribiendo para informarle que en una reunión celebrada en la ciudad de Ámsterdam, el Comité de Desarrollo Profesional decidió otorgarle la beca de la Firma bajo los auspicios del Programa de Estudios Legales de Postgrado. Igualmente le escribo para manifestarle mis felicitaciones personales para lo que constituye un logro considerable. Los estándares aplicados por la Firma son muy altos y en ningún momento está garantizado que la beca será otorgada cada año. Es por lo tanto de su mérito que el Comité haya sido de la opinión que este año sí se otorgaría la beca y estoy muy feliz de que vaya para alguien de la oficina de Caracas.

Así, Eugenio trabaja con la Firma hasta el 31 de marzo de 1986 y se dirige a Alemania a perfeccionar el idioma y a prepararse para asumir el reto de culminar otra Maestría en Leyes en la Eberhard-Karls Universität en Tübingen, donde obtiene el *Magister Legum* con mención *magna cum laude* en el año de 1988.

Habiendo terminado la Maestría en Alemania, ya Eugenio venía teniendo contacto con el profesor Erik Jayme, Decano de la Escuela de Derecho de la Universidad de Heidelberg y una de las autoridades más respetadas en el campo del Derecho Internacional Privado, quien acepta fungir como supervisor de estudios de Doctorado para Eugenio.

Eugenio decide emprender sus estudios de Doctorado e inmediatamente, en agosto de 1988, en Tübingen inicia investigaciones preliminares para luego dirigirse a la Universidad de Heidelberg. Sus estudios luego se concentrarán en el tema de la prórroga convencional de la jurisdicción internacional y de allí su tesis sobre "Cláusulas de elección de foro en condiciones generales de contratación", con un estudio comparado de los sistemas latinoamericanos.

Eugenio solicita una extensión de la beca que otorga el Comité de Desarrollo Profesional de Baker McKenzie. Dado que la beca está concebida como rotativa y solo de un año, la oficina de Caracas solicita a través de Malcolm Caplan que se haga una excepción a la regla.

> Malcolm justifica así la solicitud: Eugenio ha fungido como asociado de la Firma por aproximadamente 7 años. En mi criterio, el cual creo es compartido universalmente por todos los socios de Caracas, Eugenio posee las mejores dotaciones intelectuales, entrenamiento y antecedentes de cualquier asociado en la historia de la oficina de Caracas. La mejor evidencia de esta conclusión es el hecho de que invariablemente a Eugenio le ha sido asignada la tarea de investigación primaria en virtualmente todos los asuntos críticos legales que confronta la oficina de Caracas.

Otro de los mentores de Eugenio en el Despacho, Eduardo Machado Iturbe, escribe varias comunicaciones en apoyo a las solicitudes de Eugenio.

El 25 de julio de 1988, David Yates le comunica a Eugenio la decisión de la Firma de extenderle la beca por un año para poder culminar con sus estudios doctorales y lo felicita por el logro extraordinario de un segundo año de beca "el cual es verdaderamente excepcional y solo acontece en candidatos de méritos sobresalientes". Eugenio prosigue entonces y culmina con mención *summa cum laude* sus estudios de Doctorado en diciembre de 1991. No obstante, en 1990 decide pasar unos meses en Estrasburgo, Francia donde le es otorgado en abril de 1990, un Diploma en Derecho Comparado concedido por la Facultad Internacional de Derecho Comparado. Eugenio regresa a la oficina como abogado con el rango de profesional asociado el 1 de septiembre de 1992. De allí viene una carrera meteórica: el 1 de julio de 1993 lo nombran socio local y en octubre de 1997 Luis Miguel Vicentini anuncia que la asamblea general de socios de toda la Firma reunida en Toronto, había votado favorablemente por la escogencia de Eugenio como nuevo socio internacional de la Firma.

A lo largo de todos estos años Eugenio ha tenido una brillante carrera como abogado en el ejercicio del Derecho, lo que demuestra una gran cualidad para traspasar los éxitos del campo académico al campo profesional. Eugenio goza de una extraordinaria reputación como abogado practicante en varias áreas del Derecho. Así se desprende de las diversas áreas donde el directorio internacional de abogados Chambers and Partners califica a Eugenio desde hace muchos años. En Resolución de Controversias, Banda 1; Derecho de Energía y Recursos Naturales, Banda 1; Árbitros más Buscados, Banda 1.

De manera aún más importante, Eugenio ha guiado su vida bajo valores humanos muy importantes como la amistad, la humildad y la solidaridad; además de la disciplina, responsabilidad y respeto por el tiempo ajeno y propio y el respeto por las personas mayores. Estos valores lo han destacado entre sus pares, al igual que frente a sus alumnos. Estos últimos han sido parte importante de su vida. Su trayectoria como profesor es larga, siendo sus principales centros de enseñanza: la UCAB (su alma mater), la UCV donde ingresó como profesor en 1992 y luego fue nombrado Coordinador de la Maestría en Derecho Internacional Privado y Comparado y, más recientemente, la Universidad Monteávila, como decano y a donde se incorporó como uno de sus profesores fundadores.

En la UCV ha trabajado no solo como profesor sino como constante colaborador de quien fuera su mentora, la Profesora Tatiana de Maekelt, en la Maestría de Derecho Internacional Privado y Comparado. La Dra. Maekelt ejerció una gran influencia en Eugenio. Pienso que le reafirmó la importancia de seguir adelante con la docencia y, además, de ser parte de la Academia de Ciencias Políticas y Sociales de Venezuela de la cual, no solo se convirtió en individuo de número, sino que alcanzó su presidencia a pocos años de su nombramiento. Además de la Dra. Maekelt, el Dr. Gonzalo Parra Aranguren ejerció gran influencia en Eugenio. Siempre fue una referencia a consultar, por lo cual las visitas a la casa del Dr. Parra, bien en Altamira o en Europa, fueron constantes.

No obstante, la mayor influencia de Eugenio pienso que ha sido su padre, un gran jurista ampliamente reconocido por el foro. Lamentablemente lo perdió a temprana edad (murió en el año de 1973), pero gracias a los años que vivió con él y al constante recuerdo que su mamá le ha brindado de él, su papá ha sido de especial importancia. Igual que Eugenio, su papá vivió en Alemania y en Italia, fue un gran estudioso del Derecho, siendo su principal obra el Código de Comercio comentado. Podemos ver en el trayecto vital de Eugenio algunas coincidencias con la trayectoria de su padre.

Eugenio ha sido un muy buen hijo. Siempre se ha ocupado de su madre, la Sra. Socorro Rodríguez de Hernández-Bretón, con quien almuerza siempre los días viernes. La relación entre ellos es muy estrecha y de profundo calado.

Eugenio se casó con nuestra querida Uxua Ojer San Miguel en 1987, a quien conoció en Baker McKenzie cuando ella era pasante. Uxua ha sido una persona muy influyente en Eugenio al tiempo de ser una gran compañera de vida. Ambos comparten muchas pasiones e intereses comunes. Uxua también es profesora en la Escuela de Derecho en la UCAB y en la Universidad Monteavila y es una reconocida profesora y abogada. Uxua y su familia acogieron a Eugenio como un hijo y un hermano más. De manera que en los Ojer tiene otra familia.

Uxua y Eugenio tienen dos hijos, Armando y Eukene (Eugenia en vasco). Los dos Ignacianos hasta la médula como su papá. Armando de 19 años ahora estudia en Oxford, Inglaterra y Eukene de 16 años, cursa bachillerato en el colegio San Ignacio. Eugenio es un extraordinario padre, siempre pendiente de ellos en unión de Uxua.

Como se ve de estas breves notas, Eugenio y Baker McKenzie han tenido una historia de afectos, apoyos y respetos mutuos. En una conversación de hace un par de años con Eugenio le preguntaba si había considerado alguna vez irse de la Firma. Recuerdo que Eugenio me dijo en los términos más categóricos que “Baker es y seguirá siendo mi casa. El día que me retire me dedicaré a otra cosa”.

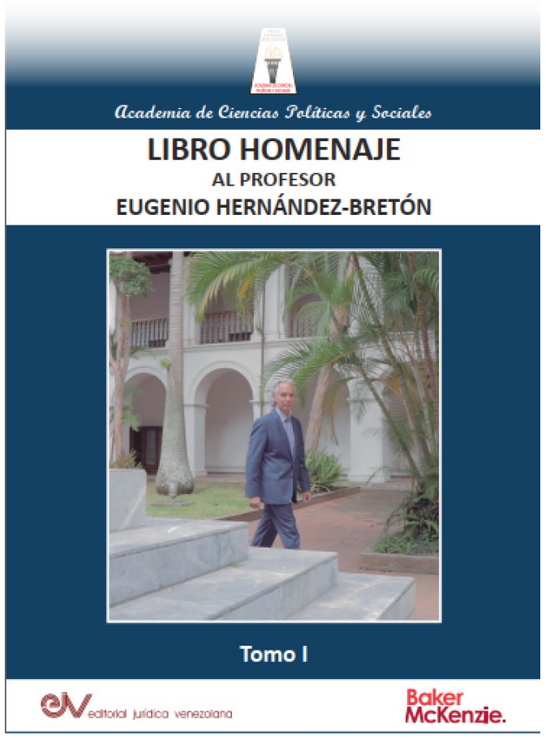
En estos tiempos convulsos y de crisis, Eugenio ha logrado transmitir a la organización un maravilloso ejemplo de resiliencia y amor incondicional a Venezuela y al estudio del Derecho. A los abogados del Escritorio los motiva con frases como estas: “El trabajo salva, aún en los peores momentos; tener algo en que ocuparse es un gran alivio”. Otra: “Aún en los peores momentos, la gente se sigue casando, los niños siguen yendo a la escuela, en fin la vida continúa. Siempre continúa”. También alienta diciendo: “A Baker McKenzie siempre llegan extraordinarios casos, tú puedes trabajar en lo que quieras”, y así entre otras.

Una de sus alumnas y ahora asociada del Escritorio me escribe sobre Eugenio:

> No solamente su aporte al mundo jurídico es digno de admiración y respeto, ya que además de ser un excelente profesional, es un mentor que cualquiera querría tener, y, sobre todo, una maravillosa persona. De las más humildes y agradables que conozco y que conoceré, sin duda. Su ética profesional y sus valores como ser humano, ciudadano y abogado, son inspiración y ejemplo a seguir. La luz más brillante, especialmente en momentos de oscuridad.

Valga pues nuestra admiración y respeto por Eugenio en este más que merecido homenaje que le concede la Academia, deseando que su obra y ejemplo nos acompañen por muchos años más.

Ronald Evans Márquez
Socio Administrador Baker McKenzie
Profesor de la UCV y de la UCAB



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