

## LEGAL SYSTEM OF VENEZUELA

In accordance with its juridical framework (the Constitution), the Bolivarian Republic of Venezuela is a democratic and social state of law and justice. The Constitution provides that the republic is a decentralized federal state and that sovereignty resides inalienably with the people, who exercise it directly in the manner provided in the Constitution and the law, and indirectly, by suffrage, through the organs of government (Articles 2 and 5 of the Constitution of the Republic).

Government powers are exclusive and are exercised based on the principles of honesty, participation, expeditiousness, efficacy, efficiency, transparency, accountability and responsibility, being fully subject to the law and the legal system (Article 141 of the Constitution of the Republic).

Government in Venezuela is structured according to the political-territorial framework of the country: at the level of the Republic, it corresponds to the national executive branch; at the State level, it corresponds to the state executive branch; and at the Municipal level, it corresponds to the municipal executive branch (Article 136 of the Constitution). National government is divided into five branches: legislative, executive, judicial, citizens' and electoral. The latter two branches were incorporated into the Constitutional regulations adopted in 1999. National government is regulated in accordance with the separation of powers.

The powers of the national legislative branch are exercised by the National Assembly, a unicameral parliamentary body made up of deputies elected in each of the 24 federal jurisdictions; deputies are elected for five-year terms based on proportional representation according to a percentage of the country's total population. Their functions include: legislating on matters of national jurisdiction and on the operation of the various branches of national government; proposing constitutional amendments and reforms; exercising oversight of the government and the civil service according to the provisions of the Constitution and of the law; and debating and approving the national budget.

The national executive branch consists of the President of the Republic, the Executive Vice-President, the Ministers, the Council of Ministers, the Office of the Attorney General and the Council of State. The duties and functions of this branch include complying with and ensuring compliance with the Constitution and national laws; directing the activities of the government, including foreign affairs; issuing decrees with the force of law prior to the adoption of enabling legislation; adopting legislation; managing the public treasury; concluding and ratifying international treaties, conventions or agreements; directing and exercising supreme command of the National Armed Forces; directing reports or special messages, in person or through the intermediary of the Executive Vice-President, to the National Assembly; and any other functions outlined in the Constitution or in law.

The Judiciary is responsible for the administration of justice, hearing cases and other matters falling under its jurisdiction based on procedures determined by law, and enforcing or ensuring the enforcement of judgments. The judicial branch is functionally, financially and administratively independent and is not empowered to establish rates, fees or to require any payment whatsoever for its services -free justice- (Article 254 of the Constitution).

The citizens' branch, autonomous and national in nature, is responsible for preventing, investigating, and punishing offences against public ethics and administrative standards, for oversight of proper administration and legality in the use of public property, and for compliance with and application of the principle of legality in all of the government's administrative

activities. The functions of the citizen's branch are exercised by the Ethics Council, which is made up of the Ombudsman, the Attorney General and the Comptroller General. The bodies that make up the citizens' branch are the Ombudsman's Office, the Office of the Public Prosecutor, and the Office of the Comptroller General of the Republic (Article 273 of the Constitution).

The Ombudsman's Office, headed by the Ombudsman, is responsible for the promotion and protection of rights and guarantees established in the Constitution and in international human rights treaties, as well as the legitimate, collective and diverse interests of the citizens. The Ombudsman's functions include protecting human rights, ensuring the proper functioning of public services; filing actions alleging unconstitutionality, habeas corpus, habeas data and other actions and recourses necessary to carry out his or her functions (Articles 280 and 281 of the Constitution).

The Public Prosecutor's Office reports to the Attorney General. The Office's functions include: guaranteeing respect for constitutional rights and guarantees in legal proceedings as well as in international treaties, conventions and agreements subscribed by the State; ordering and directing criminal investigations in cases involving the perpetration of punishable offences (Articles 284 and 285 of the Constitution).

The Office of the Comptroller General is the body charged with controlling, supervising and auditing the income, expenditures, public property and national assets of the State, as well as transactions related to the foregoing (Articles 287 to 291 of the Constitution).

The electoral branch, independent and national in nature, consists of the National Electoral Council, which is the supreme body, as well as subordinate entities, including the National Electoral Board, the Civil and Electoral Registry Commission and the Commission on Political Participation and Financing (Articles 292 to 298 of the Constitution).

The state government, which consists of states as autonomous and equal political entities with legal status, is divided into the legislative and executive branches. The executive branch, concerned with carrying out the duties of government and administration in each state, is headed by a governor elected by popular suffrage. The legislative branch in each state is responsible for legislating on matters within the state's authority and approving the budget; it consists of the Legislative Council, composed of representatives elected proportionally to represent the state and the municipalities. Each state has a Comptroller's Office which is legally and functionally autonomous and which is charged with controlling, supervising, and auditing state income, expenditures and assets, without prejudice to the powers of the national Office of the Comptroller General (Articles 162 et seq. of the Constitution).

The municipal government consists of the municipalities and local entities, such as parishes, communities and metropolitan districts, and is also divided into executive and legislative branches. The executive functions are exercised by the municipal government and administration, under the responsibility of the mayor, who is elected by popular suffrage. The legislative function is exercised by the Municipal Council, composed of popularly elected council members. Each municipality has its own legally and functionally autonomous Municipal Comptroller's Office, which is responsible for the control and auditing of municipal income, expenditures and assets, without prejudice to the powers of the national Office of the Comptroller General.

Finally, the Constitution provides for Local Public Planning Councils headed by the mayor and composed of the council members, the presidents of the Parish Boards, representatives of community organizations and other representatives of civil society (Article 182 of the Constitution).