

**DECISION OF THE CONSTITUTIONAL CHAMBER**

On November 2, 2011, the Constitutional Chamber of the Supreme Tribunal of Justice sustained the appeal for constitutional review filed against decision No. 602 of the Civil Cassation Chamber of the Supreme Tribunal of Justice (Case: Oferta Real Motorvenca v. Banco de Venezuela) issued on October 29, 2009. Following are the most significant points of the decision:

a) In the contracts agreed in foreign currency and payable within the territory of the Bolivarian Republic of Venezuela, entered into before the current foreign exchange control regime, debtor may be released from his/her obligation by making the payment of an equivalent amount in legal currency, at the official rate of exchange in effect on the date of payment: *“As to the case sub-judice, it is clear that in the contracts agreed in foreign currency and payable within the territory of the Republic, entered into before the current foreign exchange control system, debtor may be released from his/her obligation by delivering an equivalent amount in legal currency at the official rate of exchange in effect on the date of payment.”*

b) The existence of a parallel market of foreign currency is disallowed. The decision indicates that any reference to access to the parallel market it is understood as an appeal for committing a punishable act: *“the existence of a parallel market of foreign currency”- that was estimated as a well-known fact and clearly identified as “legal alternative ways”- to acquire dollars is the principal basis for which the constitutional review would be grounded, since it clearly constitutes an appeal for subverting and ignoring the exchange regime established, a fact that was not in any way condemned by decision No. 000602-2009, issued by the Civil Cassation Chamber of this Supreme Tribunal on October 29, 2009.*

*(...) In the judgment of this Chamber, it does not only constitute disregard of the exchange rules existing in the country, but also an appeal for the commission of a punishable act, since, with the purpose of regulating the circulation of foreign currency in the national territory, the Law against Foreign Exchange Crimes, published in Official Gazette No. 38.272 of September 14, 2005, set forth in article 6 (...).”*

