

The Decree with the Status, Value, and Force of Organic Law of Fair Prices, issued by the President of the Republic, was published in Official Gazette No. 6.202 Extraordinary of November 8, 2015 (the “Decree-Law”):

Following are its most important aspects:

Purpose of the Decree-Law

To establish the rules for determination of prices of goods and services, profit margins, commercialization mechanisms, and control to be exercised in order to assure access by the individuals to goods and services at fair prices.

Regulated Entities/Individuals

The national or foreign, natural and legal persons, of public or private law, that develop economic activities in the national territory, including those performed by electronic means, will be subject to the Decree-Law and to the rules and regulations of a sublegal status issued on the basis of the Decree-Law. The entities/individuals that because of the nature of the activity performed by them are governed by special legal rules, as well as those that are expressly excepted by the President of the Republic by reason of regional development plans or treaties and agreements validly executed by the Republic, are excepted from the application of the Decree-Law.

Individual Rights

The Decree-law recognizes a group of individual rights in relation to the goods and services declared or not as goods and services of the basic basket or regulated goods and services. In this connection, the individuals have the following rights (i) right to be offered competitive goods and services, of optimal quality by public and private providers and to freely choose them; (ii) right to receive basic services of optimal quality; (iii) right to appropriate, truthful, clear, opportune, and complete information about the goods and services offered in the market, and about the prices, characteristics, quality, and other significant aspects of the same, including the risks that may derive from their use or consumption; (iv) right to protection against false, misleading or abusive advertising and against coercive or unfair commercial methods; (v) right to receive reparation or indemnification for damages, due to deficiency and poor quality of the goods and services; (vi) right to protection under contracts of adhesion that are disadvantageous or impair their rights or interests, (vii) right to protection in installment transactions; (viii) right to dispose of and enjoy the goods and services in a continuous, regular, efficacious, and uninterrupted manner; among others.

Rules on Warranty

The Decree-Law establishes the warranty regime and states that the vehicles, equipment or artifacts and other goods of a durable nature that have mechanical, electric, or electronic systems, capable of having faults or flaws, must be obligatorily warranted by the provider in order to cover manufacturing and operating deficiencies. The legends “warranted”(“*garantizado*”), “warranty” (“*garantía*”), or any other equivalent one may only be used when they clearly indicate what such warranty is; as well as the conditions, form, period of time, and place in which the protected entity/individual may enforce the same. All warranties must individualize the natural or legal person granting the same, as well as the establishments and conditions in which such warranty will operate. The National Superintendence for the Defense of Socioeconomic Rights (*Superintendencia Nacional para la Defensa de los Derechos Socioeconómicos* - SUNDDE) will regulate, through technical rules, the matters concerning the warranty for goods and services. The SUNDDE will be the governing entity in this area.

Single Registry of Individuals that develop Economic Activities

The entities/individuals regulated by the Decree-Law must be registered with and keep their data updated at the Single Registry of Individuals that Develop Economic Activities (“*Registro Único de Personas que Desarrollan Actividades Económicas*” – RUPDAE). Registration is an essential requirement in order to be able to carry out economic and commercial activities in the country.

Determination or Modification of Prices

The determination, modification, and control of prices is of the competence of the National Executive and will be exercised through the SUNDDE. In this connection, the SUNDDE will establish the categorization of goods and services or of entities/individuals, activities, or sectors as per the technical criteria that it deems convenient, being able to establish different regimes for regulated, controlled or not controlled, goods and services, according to the strategic character of the same and for the benefit and protection of the individuals that access them. The SUNDDE may, on the basis of the information provided by the entities/individuals regulated by the Decree-Law or obtained from its databases or from third parties related among them because of transactions, and according to the provisions of the Decree-Law, proceed to determine any of the forms of prices of a good or service or make changes in the same on its own initiative or upon the request from the interested party, with a general or particular character. The prices determined and fixed by the SUNDDE have to be obligatorily observed and will be deemed to be valid, unless the act that determined or fixed them is impugned and such impugment is declared to be legally grounded.

Forms of Prices

The Fair Price policy is directed to the goods and services commercialized in the national market. The SUNDDE will establish the prices of the goods and services that it deems necessary. The national fair price policy will comprise, at least, the categories fair price (*precio justo*- “PJ”) and maximum price of sale to the public (*precio máximo de venta al público* - “PMVP”). The PJ may only be determined and fixed by the SUNDDE. The PMVP may be determined and fixed by the producer or importer of the good or by the provider of the service; it may also be determined or fixed by the SUNDDE on its own initiative. Both forms of prices will constitute categories of the highest price that may be assigned to the goods and services for which they are determined and fixed.

Marking of Prices

The SUNDDE may establish, with a general or particular character or being differentiated by categories, the obligation to mark prices according to the form of the price, as prescribed in the Decree-Law. The regulation on marking will be issued by the SUNDDE through an administrative ruling.

Maximum Profit Margin

The maximum profit margin that may correspond to the regulated entities/individuals with respect to the prices of specific goods or services may be periodically established, according to economic criteria of the SUNDDE, taking into consideration the recommendations issued by the Ministries with competence over Commerce, Industry and Finance matters. In no case may the profit margin exceed 30% of the cost structure of the good produced or service provided in the national territory.

In the establishment of the profit margin, the Decree-Law will allow greater preponderance to the value added and national production. The SUNDDE may determine maximum profit margins per sector, line of business, geographical space, commercialization channel, economic activity, or any other item considered by it, without such margins exceeding the maximum established.

The SUNDDE will progressively determine profit margins on the value added of each link of the chain.

Reference to Exchange Regime

The Decree-Law provides that if the SUNDDE presumes that the regulated entities are liable for any of the unlawful acts prescribed in the law that regulates the exchange regime, the SUNDDE will inform it to the competent entity in order for the relevant penalty to be applied.

Civil, Criminal, or Administrative Liability

The penalties prescribed in the Decree-law will not exempt the penalized violators from their civil, criminal or administrative liability.

The directors, partners, administrators, and any other person associated with the commercial activity represented by them will be jointly and severally liable, in relation to the commission of unlawful acts by the entities/individuals regulated by the Decree-Law.

Preservation of Labor Rights

In the case of imposition of the penalty of temporary shutdown, the violator will continue to pay the salaries to the workers and other labor and social security obligations for the period of duration of the shutdown.

Criminal Liability

The partners, as well as the members of the bodies of direction, administration, management, operating and supervisory staff, of the legal persons, as well as the mass media, web page, and other advertising means will be personally and jointly and severally liable under Venezuelan justice for the crimes committed by the companies represented by them, without prejudice to the other relevant penalties.

Violations due to Non-compliance with Formalities

The penalty of shutdown of warehouses, storehouses, or establishments for a period of 48 hours or fine ranging between 500 and 10,000 TU will be applied to those who (i) fail to perform the obligation to mark prices through printing, writing or inscription; in a visible and indelible manner in the container, package or wrapping of the good or product; (ii) make more than one marking with increased price in the good or product; (iii) fail to perform the obligation to register with or update its data in the RUPDAE; (iv) fail to place the notices required regarding the foreign exchange administration; (v) fail to exhibit the list of prices of sale to the public of the goods and services; (vi) make promotions, contests, or raffles without the authorization of the SUNDDE, among other violations.

Violations due to Infringement of Individual Rights

A fine ranging between 500 and 30,000 TU will be applied to those who violate, damage, fail to recognize, or impair the exercise by the individuals of the individual rights recognized in the Decree-Law, among other violations.

Regarding special taxpayers determined by the tax legislation, the penalty against violations of individual rights will be calculated on the basis of 12% and up to 20%, of the value of the annual net income of the violator, depending on whether or not there are aggravating circumstances. In the event of repetition of the violation, the fine will be increased to 40% on the basis of the value of the annual net income of the violator. The calculation of the annual net income will be that corresponding to the economic year preceding the imposition of the fine.

Crimes

The Decree-Law prescribes crimes that are penalized with fines ranging between 200 TU and 50,000 TU; temporary suspension from the RUPDAE; measures of temporary occupation with intervention of warehouses, storehouses, industries, commercial establishments, transport of goods, for up to 180 days; temporary shutdown of warehouses, storehouses, or establishments engaged in the commerce, conservation, storage, production or processing of goods, for up to 180 days, or closure; seizure of goods; among other measures.

Likewise, the Decree-Law establishes penalties ranging between 2 and 18 years of imprisonment, depending on the crime committed.

The Decree-Law establishes for some crimes that in the case of special taxpayers, the penalty for the same will be a fine of up to 20%, calculated on the value of the annual net income of the violator if aggravating circumstances exist. In the event of repetition, the fine will be increased to 40% of the value of the annual net income of the violator. The calculation of the annual net income will be that corresponding to the economic year preceding the imposition of the fine.

The crimes established in the Decree-Law include: sale of expired food or goods, charging of excessive prices (*especulación*); importation of goods that are noxious for health; stockpiling (*acaparamiento*); boycott; economic destabilization; resale of products, smuggling, usury; fraudulent dissemination of prices; fraudulent alteration of prices, corruption among private parties, among other crimes.

In relation to the repealed Decree with the Status, Value, and Force of Organic Law of Fair Prices, the Decree-Law includes 2 new crimes. They are:

- (i) Fraudulent dissemination of prices. The persons liable for said crime are those who by any means whatsoever disseminate false news, use violence, threats, deceit, or any other machination in order to alter the prices of the good or services or the actual value of the elements that form the fixing of the price. A penalty ranging between 2 and 4 years of imprisonment is established.
- (ii) Fraudulent alteration of prices. The persons liable for said crime are those who in a direct or indirect manner, using deceit and for profitable purposes, apply or inform, by any means whatsoever, a rate of exchange other than that fixed by the National Executive for purposes of estimating the prices of goods or services in the national territory. A penalty ranging between 8 and 10 years of imprisonment is established..

The Decree-Law repealed the Decree with the Status, Value, and Force of Organic Law of Fair Prices, published in Official Gazette No. 6.156 Extraordinary of November 19, 2014 as well as any other provisions and rules conflicting with the same.

In order to access the Decree-Law, please click [here](#).

