CONSTITUTIONAL COURT

JOINT MOTION

On March 28, 2017, citizens CAROLINA HERNÁNDEZ, IRMA BRAVO, BEATRIZ RODRIGUEZ and ARABEL PÉREZ, Venezuelan, of legal age, holders of identity documents numbers 12.104.473, 6.138.491, 6.549.876 and 10.384.665, respectively, acting attorneys, registered at the Institute for the Social Security of Attorneys under numbers 78.846, 51.122, 29.949, 61.725 and 75.720, hereby proceeding in our capacity as legal proxies for the CORPORACIÓN VENEZOLANA DEL PETRÓLEO, S.A. (CVP), a subsidiary of Petróleos de Venezuela, S.A. PDVSA, a mercantile partnership domiciled in Caracas, originally registered at the second mercantile registry office of the legal circuit of the capital district and Miranda state on December 23, 1975 under N°. 24, Volume 58-A-second, the articles of incorporation and bylaws of which have been modified several times and redefined into one single text as per entry registered at the second mercantile registry office of the legal circuit of the capital district and Miranda state on October 27, 2004 under N° 75, Volume 179-Second, the latest amendment of which is in document registered at the aforementioned mercantile registry office on March 27, 2014 under N° 72, Volume 15-A second, registered at the Tax Information Registry office (RIF for its acronyms in Spanish) under N° J-00092504-6, attached hereto and marked "A", proxies duly verified as per authenticated document at the thirteenth notary office of Caracas of Libertador municipality of the capital district on March 22, 2017, annotated under N° 4, Volume 18 of the books of authentications carried by that notary office, hereby attached and marked "B", based on the provisions in article 266 numeral 6 of the constitution of the Bolivarian Republic of Venezuela, in accordance with the provisions in articles 25 numeral 17 of the Organic Law on the Supreme Court of Justice, have filed at this court this MOTION FOR INTERPRETATION as to the content and scope of the regulatory provision contained in article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, concatenated to article 33 of the Organic Law on Hydrocarbons, as per the terms set forth in this writ.

On March 28, 2017, this docket was acknowledged in the court and the judge designated to prepare the decision of the court was magistrate Juan José Mendoza Jover who, acting as such, signed this verdict.

Later on, on March 29, 2017, it was agreed that this cause would be decided based on a joint motion by the magistrates of that court.

The analysis of the case having been completed, in order to decide, this court hereby poses the following considerations:

I

BASIS OF THE MOTION FOR INTERPRETATION

"... THE PURPOSE OF THE MOTION

The Supreme Court of Justice analyzed the purpose of the interpretation of the motion, stating to said effect that: "... the legally protected interest by means of the interpretation action is to obtain a sentence that offers certainty as to the content and scope of a precept that would eventually become part of the objective system of law in force". Pursuant to this aim, our principal has activated this motion for the purposes of clarifying the true content and scope of the norm set forth

in article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, concatenated to article 33 of the Organic Law on Hydrocarbons, which constitutes the purpose of this motion.

Said articles state the following, verbatim:

"Article 187. The National Assembly's duties are the following:

(omissis)

24. All other matters as stated in this Constitution and the law".

"Article 33. The constitution of joint ventures and the conditions that shall govern the undertaking of primary activities shall require the prior approval of the National Assembly, for which purpose the national branch of the executive power (the national executive), through an agency of the Ministry of Energy and Petroleum, shall inform on all pertinent circumstances to said constitution and conditions, including the special advantages foreseen in pro of the Republic. The National Assembly may modify the proposed conditions or establish those it deems convenient. Any further modification to said conditions must also be approved by the National Assembly, after receiving a favorable report from the Ministry of Energy and Petroleum and the Permanent Commission on Energy and Petroleum. Joint ventures shall be governed by this law and, in each and every specific case, by the terms and conditions set forth in the agreement which according to the law is issued by the National Assembly, based on the report issued by the Permanent Commission on Energy and Petroleum, approving the creation of the respective joint venture in special cases and when it is thus convenient for the nation's interests. The regulations in the Code of Commerce and all other applicable laws shall also be supplementarily applied" [Italics placed by us].

As can be observed and without prejudice to any correct interpretation, said constitutional provision foresees that it shall correspond to the National Assembly to settle all other issues as stated in our constitution and the law, and in this case, the abovementioned legal provision points to the intervention by the National Assembly in the context therein posed and beyond any and all other further doubts as to the interpretation thereof this representation warns that the principal of them within the current context centers around how said regulation is to be interpreted in the case of contempt currently incurred in by the National Assembly and, as the case may be, in light of new parliamentary omissions derived thereof; a circumstance which requires a pronouncement as to the interpretation thereof to clarify what must be done in this situation in respect of the aforementioned rule so as to permit the proper operation of the State and the system drafted in said law in this regard, and also to reinforce legal security within the Bolivarian Republic of Venezuela.

The following quandary therefore arises:

If "The constitution of joint ventures and the conditions that shall govern the undertaking of primary activities shall require the prior approval of the National Assembly, for which purpose the national branch of the executive power (the national executive), through an agency of the Ministry of Energy and Petroleum, shall inform on all pertinent circumstances to said constitution and conditions, including the special advantages foreseen in pro of the Republic.", in light of the parliamentary contempt and omission incurred in by the current National Assembly:

a. *Is the prior approval of the National Assembly required for the constitution of joint ventures, and do the conditions that shall govern the undertaking of primary activities require its prior approval?*

b. *What actions must the executive branch of power take in light of said circumstances?*

c. *Does the existence of the current State of Exception have any additional incidence on all this?*

d. *Who shall it inform as to all the circumstances pertinent to said constitution and conditions, including the special advantages foreseen in pro of the Republic?*

On the other hand, the norm in question sets forth that "The National Assembly may modify the proposed conditions or establish those it deems convenient".

e. *In this respect, in view of the current situation of contempt and omission incurred in by the National Assembly which compromises all its acts, as indicated by that constitutional court, can the National Assembly still modify the proposed conditions or establish those it deems convenient?*

f. *Must any further modification of said conditions be also approved by the National Assembly, after receiving a favorable report by the Ministry of Energy and Petroleum and the Permanent Commission on Energy and Petroleum?*

g. *Coupled to this, would the current State of Exception have any additional incidence on all this?*

By virtue of the foregoing, and in attending to the considerations presented next, the legislator's intention when establishing this part of the provision contained in the Organic Law on Hydrocarbons needs to be interpreted.

II

ON THE CONTEMPT OF THE NATIONAL ASSEMBLY

At present, it is a notorious communicational and judicial fact that there are several persistent situations of contempt incurred in by the National Assembly which have determined and generate various unconstitutional parliamentary omissions and a constitutional anomaly by that legislative body, as stated by this constitutional court in the sentence quoted next:

By means of sentence N° 260 of December 30, 2015, the electoral court of this Supreme Court of Justice expressed the following:

"…Administering justice on behalf of the Bolivarian Republic of Venezuela per authority granted in the law, it hereby:

1. Declares itself COMPETENT to learn about and decide on motions subjected to the electoral courts jointly with requests for precautionary protection and also a precautionary request to suspend effects, filed by citizen NICIA MARINA MALDONADO MALDONADO, assisted by the previously identified attorneys Ligia Gorriño and Mitzi Tuárez, allegedly a '(…) candidate to congresswoman to the National Assembly in representation of Amazonas state (…)', against '(…) the voting at the parliamentary elections held last December 6, 2015 in the electoral circuit of Amazonas state for the 2016-2021 constitutional period, conducted by the National Elections Council (…)';

2. ADMITS the motion filed at the electoral courts;

3. DEEMS ACCORDING TO THE LAW the request for precautionary protection, thereby INSTRUCTING the provisional and immediate suspension of the effects of the totalization, adjudication and proclamation issued by the entities subordinated to the National Elections Council of the candidates elected through uninominal vote, list vote and indigenous representation in the election process held on December 6, 2015 in Amazonas state for the election of congresspersons to the National Assembly;

4. Declares INOFFICIOUS the pronouncement in respect of the precautionary request for suspension of effects.

Let it be published, recorded and notified. Let these instructions be complied with…". (Underscored and italics in the original text).

In turn, sentence N° 1 of January 11, 2016 of the abovementioned electoral court of this top court of the Republic stated that:

"(…) the inaugural act of the National Assembly elected on December 6, 2015 and the designation of its board of directors took place on January 5, 2016, after qualifying its members, an act during which compliance of sentence number 260 issued on December 30, 2015 by that electoral court was verified;

ii) During that same act, the National Assembly was installed by the swearing in of 163 congresspersons as corroborated in the press note of the web portal of Diario Últimas Noticias which outlined that '(…) 167 congresspersons comprising this National Assembly were called but 163 credentials were checked, missing four: three for Amazonas state and one native Indian representative. Inasmuch as the electoral court of the Supreme Court of Justice admitted a motion, the request for precautionary protection was deemed according to the law' (http://www.el-nacional.com/politica/Pedro-Carreno-diputados-revisados- faltando_0_769723073.html).

iii) On January 6, 2016, the board of directors of the National Assembly comprising congressmen Henry Ramos Allup, Enrique Márquez and José Simón Calzadilla, proceeded to swear in citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen for the purposes of composing the referred legislative body, disregarding the judiciary order of the precautionary protection of suspension of effects of the totalization, adjudication and proclamation on the occasion of the December 6, 2015 in Amazonas state, as agreed upon by this electoral court in the aforementioned sentence.

iv) On January 7, 2016, congressman Henry Ramos Allup, acting as president of the National Assembly, declared: 'Those who qualify their own members cannot be deemed in contempt. In order to exercise our constitutional rights, we do not pass through the filter of any other power. The only two entities elected by suffrage are the president and the National Assembly', as per a press note published on the web portal of El Nacional newspaper (http://www.el-nacional.com/politica/Ramos-Allup-Asamblea-Nacional-tamiz_0_770923076.html).

v) On January 8, 2016, congressman Enrique Márquez, acting as first vice-president of the National Assembly, declared: 'We cannot comply with it; we would be entering into contempt of the will of the people and the Constitution, which we are not going to do', 'Once proclaimed, nobody can stop them from being sworn in' (http://globovision.com/article/marquez-decision-del-tsj-sobre-diputados-de-amazonas-es-inacatable).

In that regard, this court is abreast that the news was disclosed on January 6, 2016 through diverse media evidencing noncompliance of the precautionary constitutional mandate instructed as per sentence number 260 of December 30, 2015, referring to the swearing in of citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen to the National Assembly, in representation of Amazonas state the two former and in representation of the southern region the latter of the aforementioned.

Based on the foregoing it must be added that the National Assembly must follow not only the guidelines set in the Constitution but must also comply with the provisions and decisions issued or sanctioned by the rest of the State powers based on their own constitutional and legal attributions, because if not, there is the risk of falling into constitutional 'anomia' and instability of the State and its government. One example of this could be that the Assembly, under the pretext of its autonomy, may violate the principle of collaboration among powers as per article 137 of the Constitution. Likewise, it cannot incur in usurpation of authority or functions or deviation of power in its constitution, operations and performance -articles 138 and 139 of the constitution- nor can it disregard legal verdicts -article 253 ejusdem- nor can it violate or impair the rights guaranteed by the constitutional system -articles 22, 23 and 25-; to sum up, the acts by the national legislative body must be governed by article 7 ibidem, since otherwise there would be no other alternative than to resort to the provisions contained in Title VIII of the fundamental charter which states that the judiciary power is entrusted with ensuring the integrity of the Constitution -article 334- and especially the Supreme Court of Justice must ensure the supremacy and effective application thereof -article 335-.

Based on the foregoing reasonings, this electoral court considers that there exist sufficient convincing elements to decide on the request for contempt as if it were a matter of mere law. And it is therefore so decided.

Based on the foregoing, this court verified that by proceeding with the swearing in as congressmen of citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana, the board of directors of the National Assembly comprising congressmen Henry Ramos Allup, Enrique Márquez and José Simón Calzadilla incurred in contempt of sentence number 260 of December 30, 2015 issued by this electoral court which passed the resolution on the suspension of effects of the totalization, adjudication and proclamation on the occasion of the December 6, 2015 election process in Amazonas state. And it is therefore so decided.

Likewise, it has been evidenced that by participating and by being sworn in, citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana also incurred in contempt of the abovementioned sentence. And it is therefore so decided.

In that regard, the electoral court of the Supreme Court of Justice RATIFIES the content of decision number 260 of December 30, 2015, for immediate compliance therewith.

Therefore, by the aforementioned swearing in as congressmen of the national legislative body, citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana have incurred in the provisions set forth in article 138 of the constitution of the Bolivarian Republic of Venezuela, and have usurped the exercise of the referred legislative position in contempt of the abovementioned sentence number 260, a constitutional norm which stipulates that all usurped authorities are inefficient and their acts are null and void and are invalid and absolutely null and therefore, any decisions issued by the National Assembly as of the date of incorporation of these citizens are inexistent. And it is therefore so decided.

Ultimately, by way of the factual and legal circumstances evidenced so far, and so as to guarantee compliance of article 253 of the constitution of the Bolivarian Republic of Venezuela besides the jurisprudence and justice, it is reiterated that citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana have in effect incurred in contempt of the precautionary protection measure decreed by this court and subverted the authority and proper operation of the administration of justice, herein represented by the top court of the Republic as the fundamental pillar for the social and democratic rule of law and justice and ultimately of the Constitution of the Bolivarian Republic of Venezuela which is the supreme norm (art. 7 ejusdem). Therefore this court instructs the board of directors of the National Assembly TO DISINCORPORATE IMMEDIATELY citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana from their posts. And it is therefore so decided.

IV

DECISION

As per the foregoing de facto and legal reasons, this electoral court of the Supreme Court of Justice, in administering justice on behalf of the Bolivarian Republic of Venezuela per authority granted as per the law, hereby declares that it:

1. ADMITS the intervention of the citizens identified in the motives of this verdict as third parties in the case containing the motion to the electoral courts filed jointly with a request for precautionary protection.

2. RATIFIES the content of decision number 260 of December 30, 2015, for immediate compliance therewith.

3. FINDS ACCORDING TO THE LAW the members of the board of directors of the National Assembly, congressmen Henry Ramos Allup, Enrique Márquez and José Simón Calzadilla and citizens Julio Haron Ygarza, Nirma Guarulla and Romel Guzamana, holders of identity documents numbers V-12.173.417, V-1.569.032 and V-13.325.572, respectively, in contempt as per sentence number 260 issued by the electoral court on December 30, 2015,

4. INSTRUCTS the board of directors of the National Assembly to leave without effect the referred swearing in and consequently proceed to immediately disincorporate citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana from their posts, all of which must be verified and records left at the regular meeting of said national legislative body.

5. FINDS ABSOLUTELY NULL AND VOID the acts by the National Assembly issued or to be issued so long as the incorporation of the citizens subject to decision N° 260 of December 30, 2015 and this verdict continue.

Let this decision be published, recorded and notified to the petitioner, third parties, the National Elections Council, the National Assembly and the public prosecutor's office". (Underscored and italics in the original text).

In turn, in sentence N° 108 of August 1st, 2016, the electoral court expressed the following:

"…the court observes that the petitioners allege that on July 28, 2016 citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana, Venezuelan, holders of identity documents numbers V-12.173.417, V-1.569.032 and V-13.325.572 respectively, were summoned and sworn in by the board of directors of the National Assembly for the purposes of their incorporation into that legislative body as Congressmen.

In this regard, this court has observed that various media published public and uniform news on July 28, 2016 on noncompliance of the precautionary constitutional mandate instructed as per sentence number 260 of December 30, 2015, referring to the swearing in of citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen to the National Assembly, the two former representing electoral circuit I of Amazonas state and the latter representing the native Indians of the southern region, for the purposes of incorporating them to the parliamentary activities of said entity, which this court takes as a notorious and communicational event (vid. sentence of the constitutional court N° 98 of March 15, 2000, ratified by sentence of the electoral court number 58 of July 9, 2013) (…)

By way of the reasons exposed, this electoral court determines contempt in the compliance of the decisions issued by the electoral court numbers 260 of December 30, 2015 and 1 of January 11, 2016.

Therefore, and by virtue of the flagrant violation of the constitutional public order, it is imperative for this court to reiterate the absolute nullity due to its object of the act carried out during the July 28, 2016 session by means of which the board of directors of the National Assembly proceeded to swear in citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana as congressmen of that national legislative body, so said act lacks validity and existence and does not produce any juridical effect whatsoever, nor do any and all acts or proceedings issued by the National Assembly after swearing in the aforementioned citizens (vid. electoral court sentence number 1 of January 11, 2016 and constitutional court sentence number 614 of July 19, 2016). And so it is hereby declared.

IV

DECISION

As per the foregoing de facto and legal reasons, this electoral court of the Supreme Court of Justice, in administering justice on behalf of the Bolivarian Republic of Venezuela per authority granted by the law, hereby declares:

1. CONTEMPT for the sentences issued by the electoral court number 260 dated December 30, 2015 and number 1 of January 11, 2016, and in the case of continued contempt to the abovementioned decisions, this court reserves the right to exercise any and all corresponding legal actions or procedures.

2. THE JUDICIAL INVALIDITY, INEXISTENCE AND NULLITY due to the flagrant violation of the constitutional public order as per the alleged act of swearing in citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana as congressmen to the National Assembly carried out on July 28, 2016 by the board of directors of the national legislative body, as well as any and all acts or proceedings issued by the National Assembly after swearing in the aforementioned citizens.

3. NOTIFY this decision to the above identified citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana, the National Assembly of the Bolivarian Republic of Venezuela and the citizen attorney general of the Republic.

Send a certified copy of this decision to the Presidency of the Bolivarian Republic of Venezuela, the National Elections Council, the comptroller general of the Republic, the attorney general of the Republic and the People's Ombudsman.

Let it be published, recorded and notified. Let these instructions be complied with…". (Underscored and italics in the original text).

From the text of the above quoted decision it can be surmised that the electoral court of the Supreme Court of Justice, acting within the framework of its constitutionally and legally established faculties and competencies, emphatically, categorically and expressly proceeded to ratify the provisions adopted by it in regards to the case of the swearing in of citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana as congressmen to the National Assembly, which - as exposed in the text of the quote -is a ratification of previously adopted decisions in this respect through sentences N° 260 of December 30, 2015 and N° 1 of January 11, 2016, indicating that: "with the aforementioned swearing in as congressmen of the national legislative body, citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana have incurred in the provisions set forth in article 138 of the constitution of the Bolivarian Republic of Venezuela, usurping the exercise of the referred legislative position in contempt of aforementioned sentence number 260 which is a constitutional norm that stipulates that all usurped authorities are inefficient and their acts are null and void and are invalid and absolutely null and therefore any decisions issued by the National Assembly as of the date of incorporation of these citizens are inexistent".

Likewise, the aforementioned electoral court sentence expressly sets forth the verification of evident contempt by the directors of the National Assembly by proceeding to swear in citizens Nirma

Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen of the National Assembly and by permitting their incorporation into the deliberations and votings of the plenary sessions of the abovementioned national legislative body.

Thus, the categorical expression used in the aforementioned decisions and in particular in a more recent sentence related to the case (of August 1st, 2016), leave not the minimum doubt that so long as citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana continue to act as congressmen of said legislative body, each and every act of any nature whatsoever issued by the National Assembly are absolutely null and void due to the usurpation of authority by said citizens, as declared by the electoral court of the Supreme Court of Justice by means of the legally established procedure for said purposes, and expressly provided for in the motives and provisions set forth in the recently mentioned verdicts.

Besides the foregoing it is worth recalling among many other sentences those issued by the constitutional court of the Supreme Court of Justice Nos. 808 and 810 dated September 2 and 21, 2016, respectively; 952 of November 21st, 2016, as well as decisions 1012, 1013, 1014 of November 25, 2016 and 1 of January 6, 2017, ratifying the contempt of the National Assembly; decisions 260 of December 30, 2015, 1 of January 11, 2016 and 108 of August 1, 2016, emanated from the electoral court of the Supreme Court of Justice, which set forth among other pronunciations: "that the acts emanating from the National Assembly are patently unconstitutional and are therefore absolutely null and void of all legal enforcement and validity, including any laws sanctioned, so long as contempt for the electoral court of the Supreme Court of Justice continues".

III

COMPETENCY

In the first place, the competencies of the constitutional court of the Supreme Court of Justice to hear this motion for interpretation must be established and in this regard it must be pointed out that numeral 6 of article 266 of the constitution of the Bolivarian Republic of Venezuela attributes to the Supreme Court of Justice the decisions on all acts of interpretation filed to determine the meaning and scope of all legal texts, as per the following terms:

"Article 266.- The following are attributions of the Supreme Court of Justice:

(...)

6. To learn about any motions for interpretation on the content and scope of legal texts as per the terms contemplated in the law.

(...)

The attribution stated in said numeral 1 shall be exercised by the constitutional court; those stated in numerals 2 and 3 by the plenary court and those contained in numerals 4 and 5 by the political administrative court. Any other matter shall be settled by the various courts as per the provisions in this Constitution and the law (...)".

In turn, article 25, numeral 17 of the Organic Law of the Supreme Court of Justice expressly sets forth the competency of the constitutional court to "learn about the demand for the interpretation of norms and principles comprising the constitutional system".

This being the case, it is estimated in this opportunity upon requiring an interpretation on the content and scope of the regulatory provision contained in article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in concatenation with article 33 of the Organic Law on Hydrocarbons, as well as due to the transcendental nature of this subject matter and its connection to the contempt persisting at the National Assembly, coupled to the parliamentary omissions generated by it (article 336, numeral 7 of the constitution) and the current State of Exception (article 339 ejusdem), that said constitutional court is competent to learn about this request.

IV

ADMISSIBILITY

The demands for the admissibility and processing of motions for the interpretation of the law have been developed by the jurisprudence of the Supreme Court of Justice, and have set forth other concurrent requisites for admissibility of the aforementioned motions: "(i) legitimation to resort thereto; (ii) that the interpretation requested verse on a legal instrument, even when it does not expressly set forth the possibility of interpretation of its norms; (iii) that the reason for the interpretation be determined; (iv) that no prior pronunciation as to the point debated exist and, if there is, that its modification not be necessary; (v) that the aim not be to substitute for existing procedural motions or to obtain a declaration of a sentence or a plea; (vi) that another action of a different, incompatible or contradictory nature not be accrued to the cause , and (vii) that the object of interpretation not be to obtain a prior opinion from the jurisdiction body to solve a concrete case being heard by another jurisdictional body[1]*".*

In this regard, it is imperative to refer to each and every one of the aforementioned requisites, so as to surmise the admissibility of this motion for interpretation:

1.- Legitimation to resort thereto.

Is based on the existence of a legal interest which -in the criterion of the top court of the Republic- must be personal and direct, meaning to say the particular legal situation of which demands that the top tribunal issue a pronunciation on the scope and application object of the motion relevant for it, and that the request be posed for a concrete or specific case to which the work of interpreting must be circumscribed.

This motion clearly shows the direct interest of the Corporación Venezolana de Petróleo, S.A. (CVP) in the interpretation of the content and scope of the regulatory provision contained in article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in concatenation with article 33 of the Organic Law on Hydrocarbons, legally appointed as the entity that in representation of the Venezuelan State acts as the majority shareholder in the joint ventures as per article 22 ejusdem, and the bylaws of which are attached hereto, marked "C", it in turn being a subsidiary of Petróleos de Venezuela, S.A. (PDVSA)-.

In this regard, the current legal interest of our principal arises from the need to clarify eventual legal situations which may arise in respect to the National Assembly, in applying the Organic Law on Hydrocarbons.

Coupled to the foregoing, the current legal interest of our principal also arises from the will to establish a concrete interpretation that offers greater legal security when applying the law and that offers a stable regime for joint ventures, to know when to request the approval of the National Assembly alluded to in the norm which is the object of the interpretation, paying special attention to the current situation of contempt and omission of that legislative body.

2.- That the requested interpretation verse about a regulatory instrument, even if it does not expressly set forth the possibility of interpretation of its norms.

The interpretation requested by means of this motion harks back to a provision of a constitutional nature foreseen in article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in concatenation with a provision of a legal nature contained in article 33 of the Organic Law on Hydrocarbons.

3.- That the reason for the interpretation be determined.

This motion clearly determines the purpose thereof, which is to determine the scope and content of article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in concatenation to article 33 of the Organic Law on Hydrocarbons.

4.- That no prior pronunciation as to the point debated exist and, if it does, that its modification not be necessary.

The Supreme Court of Justice has not issued any pronouncement as to the interpretation of the content and scope of article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in concatenation with article 33 of the Organic Law on Hydrocarbons.

5.- That the aim not be to substitute for existing procedural motions or to obtain a declaration of a sentence or a plea.

Our principal does not seek to obtain through this motion any favorable right declared for it , nor is it involved in any contention that must be resolved and which could generate any benefit emanated for it from the interpretation issued by that court on the regulation which is the object of this motion.

6.- That another action of a different, incompatible or contradictory nature not be accrued to the cause.

This motion has not been attached to nor is accrued to any other action; it has been autonomously inchoated.

7.- That the object of interpretation not be to obtain a prior opinion from the jurisdiction body to solve a concrete case being heard by another jurisdiction body.

The object of this request has not been subjected to the knowledge of any jurisdiction body.

Based on all the foregoing, we respectfully request that this motion for interpretation be declared admissible.

V

PETITORY

For the abovementioned reasons, we expressly request that this honorable constitutional court of the Supreme Court of Justice ADMIT the proposed motion for interpretation and therefore issue a pronunciation as to the scope and meaning of the provisions in article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in concatenation with article 33 of the Organic Law on Hydrocarbons.

Si "The constitution of joint ventures and the conditions that shall govern the undertaking of primary activities shall require the prior approval of the National Assembly, for which purpose the national branch of the executive power (the national executive), through an agency of the Ministry of Energy and Petroleum, shall inform on all pertinent circumstances to said constitution and conditions, including the special advantages foreseen in pro of the Republic", in light of the contempt and parliamentary omission of the current National Assembly:

a. Is the prior approval of the National Assembly required for the constitution of joint ventures and do the conditions that shall govern the undertaking of primary activities require the prior approval thereof?

b. How must the executive power act under these circumstances?

c. Does the current State of Exception have any additional incidence on all this?

d. Who shall it inform as to all the circumstances pertinent to said constitution and conditions, including the special advantages foreseen in pro of the Republic?

On the other hand, the norm in question sets forth that "The National Assembly may modify the proposed conditions or establish those it deems convenient".

a. In this respect, in view of the current situation of contempt and omission of the National Assembly which compromises all its acts as indicated by that constitutional court, can the National Assembly modify the proposed conditions or establish those it deems convenient?

b. Must any further modification on said conditions be also approved by the National Assembly, after receiving a favorable report by the Ministry of Energy and Petroleum and the Permanent Commission on Energy and Petroleum?

c. Would the current State of Exception have any additional incidence on all this?

II

ON THE COMPETENCY

Prior to any pronunciation, this court must determine its competency to learn about this motion for interpretation and in this respect, observes the following:

Article 266, numerals 1 and 6 of the constitution of the Bolivarian Republic of Venezuela sets forth that: "*The following are attributions of the Supreme Court of Justice: 1. To exercise the constitutional jurisdiction as per Title VIII of this Constitution* (…) *6. To know about the motions for interpretation as to the content and scope of legal texts as per the terms contemplated in the law* (…) *The attribution stated in numeral 1 shall be exercised by the constitutional court; those stated in numerals 2 and 3 by the plenary court and those contained in numerals 4 and 5 by the political administrative court. Any other matter shall be seen by the various courts as per the provisions in this Constitution and the law* (…)" (Italics placed by us).

As can be observed, the above quoted constitutional precept does not specify which court of the Supreme Court of Justice must settle motions for interpretation on the content and scope of legal texts, since "…*the intention of the constituent was to expand the attribution criterion adopted by the legislator in the repealed Organic Law on the Supreme Court of Justice*…" (*Vid*. Sentence by this court N° 00664 of June 4, 2008).

In sentence n° 1077 of September 22, 2000, case "*Servio Tulio León*", this constitutional court determined its competency to interpret the content and scope of the laws and the constitutional principles, as per the provisions in article 335 of the constitution of the Bolivarian Republic of Venezuela, in accordance to article 336 *ejusdem.*

In this respect, this constitutional court as the maximum and final interpreter of the constitution of the Bolivarian Republic of Venezuela, has determined that the faculty of interpreting is aimed at the law to be interpreted be contained in the constitution (sentence n° 1415 of November 22, 2000, case "*Freddy Rangel Rojas"*, among others) or be integrated into the constitutional system (sentence n° 1860

of October 5, 2001, case "*Consejo Legislativo del Estado Barinas" (legislative council of Barinas state*), including international treaties or conventions authorizing the production of laws and regulations by multistate entities (sentence nº 1077 of September 22, 2000, case "*Servio Tulio León"*) or the general regulations issued by the constituent national assembly (sentence nº 1563 dated December 13, 2000, case "*Alfredo Peña"*).

In turn, the Organic Law of the Supreme Court of Justice embraced the mentioned doctrine, and expressly stated in its article 25.17 this court's competency to "*Learn about the request for the interpretation of norms and principles comprising the constitutional system*".

This competency attribution criterion was developed by the legislator in article 31, numeral 5ar of the Organic Law on the Supreme Court of Justice, when it established that the competency to hear and decide on motions for interpretation of legal texts shall depend on the subject matter each of the courts handles:

"*Common court competencies*

Article 31. The following are common competencies for each of the courts of the Supreme Court of Justice:

(…)

5. *To hear motions for interpretation on the scope and sense or meaning of the legal texts, so long as said hearings do not imply a substitution of the mechanism, medium or motion set forth in the law to settle the specific situation* (…)".

Coupled to this, as per article 335 of the constitution and the reiterated jurisprudence of this court, it has been established that any interpretations issued are binding, which is logical as per the principles of the constitutional rule of law, subject to the powers in the Constitution, constitutional jurisdiction and constitutional supremacy (articles 7, 137, 266.1 and 336 of the fundamental text). Therein that this court has the attracting power to interpret any regulatory provision, and at its sole discretion assume the competency to hear the motions for interpretation from the constitutional perspective, which is especially relevant in light of the provisions in the preamble of the constitution of the Bolivarian Republic of Venezuela and its statement of motives.

This being the case, in this opportunity it is estimated to be competent to require the interpretation on the content and scope of the regulatory provision contained in article 33 of the Organic Law on Hydrocarbons, in regards to article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, as well as due to the transcendental nature of this subject matter and its connection to the contempt persisting at the National Assembly, coupled to the parliamentary omissions generated by it (art. 336.7 *ejusdem*) and as per the framework of the current State of Exception (art. 339), this constitutional court declares itself competent to learn about this request. And it is therefore so decided.

III

ON THE ADMISSIBILITY

This constitutional court proceeds to hear about the admission of the cause of action of nullity and for said purpose, observes the following as per article 133 of the Organic Law on the Supreme Court of Justice, which states the following:

Article 133. The inadmissibility of the motion shall be declared:
1. When mutually excluding lawsuits or motions are accrued or the procedures for which are incompatible;
2. When the documents indispensable to verify if the lawsuit or motion is admissible are not attached;
3. When there is a patent lack of legitimacy or representation attributed to the male or female defendant, or whoever acts in their name, respectively;
4. When a judgment or lis pending exists;
5. When it contains offensive or disrespectful concepts;
6. When there is a lack of passive legitimacy.

Thus, once the grounds for inadmissibility have been reviewed (as in effect they have been) as per the transcribed regulations, this court warns in its preliminary study that the request for a ruling is not subsumed to any of the referred grounds and therefore this court

admits this motion for nullity for processing, notwithstanding any prejudice as to the merit of the cause of action, and notwithstanding the powers vested in this court to examine compliance with the requisites for admissibility and source at any status and stage of the process. And so it is hereby declared.

IV

ON THE DECLARATION OF THE ISSUE AS BEING OF MERE LAW

Based on the jurisprudence precedents at this court contained in sentences number 445/2000, 226/2001, 1.684/2008, 1.547/2011 and 09/2016, considering on the one hand that this case is of mere law since it does not require the evacuation of any proof whatsoever, inasmuch as it focuses on obtaining a pronunciation on the interpretation of several articles foreseen in the constitution of the Bolivarian Republic of Venezuela as well as another norm in the legal code in force, and on the other hand, based on the seriousness and urgency of the statements underlying the request for annulment presented, linked to the current existing situation in the Bolivarian Republic of Venezuela, with a direct incidence over the entire Venezuelan people, this court declares that this case is of mere law and its resolution is urgent.

Based on the foregoing, as per the provisions in article 7 of the Code on Civil Procedures, applicable due to the suppletory waiver of article 98 of the Organic Law on the Supreme Court of Justice, in accordance to article 145 *ejusdem*, the court deems it pertinent to decide on this issue without further ado. And it is therefore so decided.

V

CONSIDERATIONS FOR DECIDING

The corresponding analysis having been conducted, as well as this case having been declared as of mere law this court proceeds to decide on the basis of the following de facto and legal considerations:

This court observes that the object of this motion is circumscribed to interpreting article 33 of the Organic Law on Hydrocarbons in regards to article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela, in respect to the intervention of the National Assembly, in its function as political controller regarding the alluded norms and considering the notoriously communicational and current contempt of the National Assembly, coupled to the parliamentary omission thereby generated, as well as the situation generated by the State of Exception in force.

Now then, article 187, numeral 24 of the constitution of the Bolivarian Republic of Venezuela states the following:

“Article 187. The following are the duties of the National Assembly:

(…)

24.- All other issues stated in this Constitution and the law.”

In turn, article 33 of the Organic Law on Hydrocarbons foresees the following:

“Article 33. The constitution of joint ventures and the conditions that shall govern the undertaking of primary activities shall require the prior approval of the National Assembly, for which purpose the national branch of the executive power (the national executive), through an agency of the Ministry of Energy and Petroleum, shall inform on all pertinent circumstances to said constitution and conditions, including the special advantages foreseen in pro of the Republic. The National Assembly may modify the proposed conditions or establish those it deems convenient. Any further modification to said conditions must also be approved by the National Assembly, after receiving a favorable report from the Ministry of Energy and Petroleum and the Permanent Commission on Energy and Petroleum. Joint ventures shall be governed by this law and, in each and every specific case, by the terms and conditions set forth in the agreement which according to the law is issued by the National Assembly, based on the report issued by the Permanent Commission on Energy and Petroleum, approving the creation of the respective joint venture in special cases and when it is thus convenient for the nation’s interests. The regulations in the Code of Commerce and all other applicable laws shall also be supplementarily applied”.

[Italics placed by us].

On this latter norm, the plaintiffs pose the following:

"…said constitutional provision foresees that the National Assembly shall be entrusted with all other issues stated in this Constitution and the law, and in this case, the above quoted legal provision points to the intervention by the National Assembly in the context therein set forth and beyond any other interpretation doubts that may arise, this representation observes that the principal of them within the current context is centers around how said law must be interpreted, in light of the act of contempt the National Assembly is immersed in and as the case may be, in light of any future parliamentary omissions derived therefrom; a circumstance that requires an interpretation pronunciation that sheds light as to what must be done in this situation in respect of the regulation alluded to, so as to permit the proper operation of the State and of the system drafted in said law in this regard and also to reinforce the legal security by the Bolivarian Republic of Venezuela.

(…)

If "The constitution of joint ventures and the conditions that shall govern the undertaking of primary activities shall require the prior approval of the National Assembly, for which purpose the national branch of the executive power (the national executive), through an agency of the Ministry of Energy and Petroleum, shall inform on all pertinent circumstances to said constitution and conditions, including the special advantages foreseen in pro of the Republic." in light of the contempt and parliamentary omission of the current National Assembly:

h. Is the prior approval of the National Assembly required for the constitution of joint ventures and do the conditions that shall govern the undertaking of primary activities require its prior approval?

i. What actions must the executive branch of power take in light of said circumstances?

j. Does the existence of the current State of Exception have any additional incidence on all this?

k. Who shall it inform as to all the circumstances pertinent to said constitution and conditions, including the special advantages foreseen in pro of the Republic?

On the other hand, the norm in question sets forth that "The National Assembly may modify the proposed conditions or establish those it deems convenient".

l. In this respect, in view of the current situation of contempt and omission of the National Assembly which compromises all its acts, as indicated by that constitutional court, can the National Assembly modify the proposed conditions or establish those it deems convenient?

m. Must any further modification to said conditions be also approved by the National Assembly, after receiving a favorable report by the Ministry of Energy and Petroleum, and the Permanent Commission on Energy and Petroleum?

n. Coupled to this, would the current State of Exception have any additional incidence on all this?

In this respect, this constitutional court observes that it is a public, notorious and communicational fact that the situation of contempt of the National Assembly remains uninterrupted to date, and for this reason it deems necessary to refer to the stance that this maximum and final interpreter has taken in this respect so as to guarantee the constitution of the Bolivarian Republic of Venezuela:

"By means of sentence n° 260 of December 30, 2015, the electoral court of this Supreme Court of Justice expressed the following:

"…In administering justice on behalf of the Bolivarian Republic of Venezuela per authority granted by the law, it hereby declares:

1. ITSELF COMPETENT to hear and decide on the motion to the electoral courts jointly with request for precautionary protection and, also a precautionary request for the suspension of effects, filed by citizen NICIA MARINA MALDONADO MALDONADO, assisted by attorneys Ligia Gorriño and Mitzi Tuárez, previously identified and allegedly acting as '(…) candidate to congresswoman to the National Assembly in representation of Amazonas state (…)', against '(…) the voting act of the parliamentary elections held last December 6, 2015 at the election circuit of Amazonas state for the 2016-2021 constitutional period, carried out by the National Elections Council (…)'.

2. ADMITS the motion which has been filed at the electoral courts.

3. FINDS ACCORDING TO THE LAW the request for precautionary protection and therefore temporarily and immediately INSTRUCTS the suspension of effects of the totalization, adjudication and proclamation issued by the subordinate entities of the National Elections Council on the candidates elected as per uninominal vote, list vote and indigenous representation in the election process carried out on December 6, 2015 in Amazonas state for the election of congresspersons to the National Assembly.

4. DECLARES INOFFICIOUS the pronouncement in respect of the precautionary request for the suspension of effects.

Let it be published, recorded and notified. Let these instructions be complied with…". (Underscored and italics in the original text).

In turn, in sentence n° 1 of January 11, 2016, the abovementioned electoral court of this top court of the Republic stated that:

"(…) *the inaugural act of the National Assembly elected on December 6, 2015 and designation of its board of directors after qualifying its members took place on January 5, 2016, an act in which compliance with sentence number 260 issued on December 30, 2015 by this electoral court was verified;*

ii) During that same act, the National Assembly was installed by the swearing in of 163 Congressmen as corroborated in the press note of the web portal of Diario Últimas Noticias which outlined that '(…) 167 congressmen comprising this National Assembly were called but only 163 credentials were verified, save for four: three in representation of Amazonas state and one representing the native Indians. Inasmuch as the electoral court of the Supreme Court of Justice admitted a motion, the request for precautionary protection was deemed according to the law' (http://www.el-nacional.com/politica/Pedro-Carreno-diputados-revisados- faltando_0_769723073.html).

iii) On January 6, 2016, the board of directors of the National Assembly comprising congressmen Henry Ramos Allup, Enrique Márquez and José Simón Calzadilla proceeded to swear in citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen for the purposes of composing the referred legislative body notwithstanding the judiciary order of the precautionary protection of suspension of effects of the totalization, adjudication and proclamation on the occasion of the December 6, 2015 election process in Amazonas state, as agreed upon by this electoral court in the aforementioned sentence.

iv) On January 7, 2016, congressman Henry Ramos Allup, acting as the president of the National Assembly, declared: 'Those who qualify their own members cannot be deemed in contempt. In order to exercise our constitutional rights, we do not pass through the filter of any other power. The only two entities elected by suffrage are the president and the National Assembly', as per a press note published on the web portal of El Nacional newspaper (http://www.el-nacional.com/politica/Ramos-Allup-Asamblea-Nacional-tamiz_0_770923076.html).

v) On January 8, 2016, congressman Enrique Márquez, acting as first vice-president of the National Assembly, declared: 'We cannot comply with it; we would be entering into contempt of the will of the people and the Constitution, which we are not going to do', 'Once proclaimed, nobody can stop them from being sworn in' (http://globovision.com/article/marquez-decision-del-tsj-sobre-diputados-de-amazonas-es-inacatable).

In that regard, this court is abreast that diverse media disclosed news were on January 6, 2016, evidencing noncompliance of the precautionary constitutional mandate instructed as per sentence number 260 of December 30, 2015, referring to the swearing in of citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen to the National Assembly, the two former in representation of Amazonas state and the latter in representation of the southern region.

Based on the foregoing it must be added that the National Assembly must follow not only the guidelines set forth in the constitution but must also comply with the provisions and decisions issued or sanctioned by the rest of the State powers based on their own constitutional and legal attributions, because if not there is the risk of constitutional 'anomia' and instability for the State and its government. One example of this could be that the Assembly, under the pretext of its autonomy, could violate the principle of collaboration among powers as per article 137 of the constitution. Likewise it cannot in its constitution, operations and performance incur in usurpation of authority or functions or deviation of power -articles 138 and 139 of the constitution- nor can it disregard legal verdicts -article 253 ejusdem- nor can it violate or impair the rights guaranteed by the constitutional system -articles 22, 23 and 25. To sum up, the acts by the national legislative body must be governed by article 7 ibidem, since otherwise there would be no other alternative than to resort to the provisions contained in Title VIII of the fundamental charter: the judiciary power is entrusted with ensuring the integrity of the constitution -article 334- and especially the Supreme Court of Justice must ensure the supremacy and effective application thereof -article 335-.

Based on the foregoing reasonings, this electoral court considers that there exist sufficient convincing elements to decide on the request for contempt as if it were a matter of mere law. And it is therefore so decided.

Based on the foregoing, this court verified that by proceeding to swear in citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen, the board of directors of the National Assembly comprising congressmen Henry Ramos Allup, Enrique Márquez and José Simón Calzadilla incurred in contempt of sentence number 260 issued on December 30, 2015 by this electoral court, which passed the resolution on the suspension of effects of the acts of totalization,

adjudication and proclamation on the occasion of the December 6, 2015 election process in Amazonas state. And it is therefore so decided.

Likewise, it has been evidenced that by participating and by being sworn in, citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana also incurred in contempt of the abovementioned sentence. And it is therefore so decided.

In this regard, the electoral court of the Supreme Court of Justice RATIFIES the content of decision number 260 of December 30, 2015, for immediate compliance.

Therefore, with the aforementioned swearing in as congressmen by the national legislative body, citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana have incurred in the provisions set forth in article 138 of the constitution of the Bolivarian Republic of Venezuela, and usurped the exercise of the referred legislative position in contempt of the aforementioned sentence number 260, a constitutional norm which stipulates that all usurped authorities are inefficient and their acts are null and void, are invalid and absolutely null and, therefore, any decisions issued by the National Assembly as of the date of incorporation of these citizens are inexistent. And it is therefore so decided.

Finally, by way of the factual and legal circumstances evidenced so far, and so as to guarantee compliance of article 253 of the constitution of the Bolivarian Republic of Venezuela, besides the jurisprudence and justice, it is reiterated that citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana have in effect incurred in contempt of a precautionary protection measure decreed by this court and subverted the authority and proper operation of the administration of justice, herein represented by the top court of the Republic as the fundamental pillar for the social and democratic rule of law and justice, and ultimately of the constitution of the Bolivarian Republic of Venezuela, which is the supreme norm (art. 7 ejusdem). So this court INSTRUCTS the board of directors of the National Assembly, TO IMMEDIATELY DISINCORPORATE citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana from their posts. And so it is therefore decided.

IV

DECISION

As per the foregoing de facto and legal reasons, this electoral court of the Supreme Court of Justice, in administering justice on behalf of the Bolivarian Republic of Venezuela per authority granted by the law, hereby:

1. ADMITS the intervention of the citizens identified in the motion of this verdict as third parties in the case containing the motion to the electoral courts filed jointly with request for precautionary protection.

2. RATIFIES the content of decision number 260 of December 30, 2015, for immediate compliance therewith.

3. FINDS ACCORDING TO THE LAW the contempt of sentence number 260 issued by the electoral court on December 30, 2015, by the members of the board of directors of the National Assembly, congressmen Henry Ramos Allup, Enrique Márquez and José Simón Calzadilla and citizens Julio Haron Ygarza, Nirma Guarulla and Romel Guzamana, holders of identity documents numbers V-12.173.417, V-1.569.032 and V-13.325.572, respectively,

4. INSTRUCTS the board of directors of the National Assembly to leave without effect the referred swearing in and consequently proceed to disincorporate immediately citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana from their posts, all of which must be verified and leave records of at the regular meeting of said national legislative body.

5. DEEMS ABSOLUTELY NULL all acts by the National Assembly that have been issued or are to be issued so long as the incorporation of the citizens mentioned in decision N° 260 of December 30, 2015 and this verdict still remain.

Let this decision be published, recorded and notified to the petitioner, to third parties, to the National Elections Council, the National Assembly and the public prosecutor's office". (Underscored and italics in the original text).

In turn, in sentence n° 108 of August 1, 2016, the electoral court expressed the following:

"*...the court values that the petitioners allege that on July 28, 2016 citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana, Venezuelan, holders of identity document numbers V-12.173.417, V-1.569.032 and V-13.325.572 respectively, were summoned and sworn in by the board of directors of the National Assembly for the purposes of their incorporation into that legislative body as congressmen.*

In this regard, this court has observed that various media published public and uniform news on July 28, 2016 on the noncompliance of the precautionary constitutional mandate instructed as per sentence number 260 of December 30, 2015, referring to the swearing in of citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen to the National Assembly, the two former representing electoral circuit I of Amazonas state and the latter representing the native Indians of the southern region, for the purposes of incorporating them into the parliamentary activities of said entity, which this court takes as a notorious and communicational event (vid. constitutional court sentence N° 98 of March 15, 2000, ratified by electoral court sentence number 58 of July 9, 2013) (…)

By way of the reasons exposed, this electoral court has determined contempt in the compliance of the decisions issued by the electoral court number 260 of December 30, 2015 and 1 of January 11, 2016.

Therefore, and by virtue of the flagrant violation of the constitutional public order, it is imperative for this court to reiterate the absolute nullity due to its object of the act carried out during the July 28, 2016 session whereby the board of directors of the National Assembly proceeded to swear in citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana as congressmen of the national legislative body, stating that said act lacks validity and existence and does not produce any juridical effect whatsoever, as well as any and all acts or proceedings issued by the National Assembly by swearing in the aforementioned citizens (vid. electoral court sentence number 1 of January 11, 2016 and constitutional court sentence number 614 of July 19, 2016). And so it is hereby declared.

IV

DECISION

As per the foregoing de facto and legal reasons, this electoral court of the Supreme Court of Justice, in administering justice on behalf of the Bolivarian Republic of Venezuela per authority granted by the law, hereby declares:

1. CONTEMPT to the sentences issued by the electoral court number 260 dated December 30, 2015 and number 1 of January 11, 2016, and if this contempt to the abovementioned decisions continues, this court reserves the right to exercise any and all corresponding legal actions or procedures.

2. THE JUDICIAL INVALIDITY, INEXISTENCE AND NULLITY due to the flagrant violation of the constitutional public order in the alleged swearing in of citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana as congressmen to the National Assembly carried out on July 28, 2016 by the board of directors of the national legislative body, as well as any and all acts or proceedings issued by the National Assembly after swearing in the aforementioned citizens.

3. NOTIFY this decision to the above identified citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana, the National Assembly of the Bolivarian Republic of Venezuela and the citizen attorney general of the Republic.

Send a certified copy of this decision to the Presidency of the Bolivarian Republic of Venezuela, the National Elections Council, the comptroller general of the Republic, the attorney general of the Republic and the People's Ombudsman.

Let it be published, recorded and notified. Let these instructions be complied with…". (Underscored and italics in the original text).

From the text of the above quoted decision it can be surmised that the electoral court of this Supreme Court of Justice, acting within the framework of its constitutionally and legally established faculties and competencies, has emphatically, categorically and expressly proceeded to ratify the provisions thereby adopted in regards to the case of the swearing in of citizens Julio Ygarza, Nirma Guarulla and Romel Guzamana as congressmen to the National Assembly, which - as exposed in the text of the quote - is a ratification of decisions previously adopted in that same issue by means of sentences n° 260 dated December 30, 2015 and n° 1 of January 11, 2016, indicating that "*through the aforementioned swearing in as congressmen of the national legislative body, citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana have incurred in the provisions set forth in article 138 of the constitution of the Bolivarian Republic of Venezuela, by usurping the exercise of the referred legislative position in contempt of the aforementioned sentence number 260, which is a constitutional norm that stipulates that all usurped authorities are inefficient and their acts are null and void and are invalid and absolutely null and therefore any decisions issued by the National Assembly as of the date of incorporation of these citizens are inexistent*".

Likewise, the aforementioned electoral court sentence expressly sets forth the verification of a blatant contempt by the directors of the National Assembly by proceeding to swear in citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen of the National Assembly and in turn, permitting their incorporation into the deliberations and voting at the plenary sessions of the aforementioned national legislative body.

Thus the categorical expressions used in the aforementioned decisions, and in particular, in a more recent sentence related to the case (of August 1st, 2016), do not leave the slightest doubt as to all the acts of any nature whatsoever issued by the National Assembly by citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana, acting as congressmen at said legislative body are absolutely null and void due to the usurpation of authority so long as these citizens continue to be active, as declared by the electoral court of the Supreme Court of Justice by means of the legally established procedure for said purposes and expressly provided for in the motives and provisions set forth in the recently mentioned verdicts.

Besides the foregoing, among many sentences issued by this court we must recall sentences 808 and 810 dated September 2 and 21, 2016, respectively; 952 of November 21st, 2016, as well as decisions 1012, 1013 and 1014 of November 25, 2016 and 1 of January 6, 2017, ratifying the contempt of the National Assembly to decisions 260 of December 30, 2015, 1 of January 11, 2016 and 108 of August 1st, 2016, emanated from the electoral court

of the Supreme Court of Justice, which among other pronunciations set forth "*that all acts emanating from the National Assembly, including the laws sanctioned, are patently unconstitutional and are therefore absolutely null and void of all legal enforcement and validity so long as contempt for the electoral court of the Supreme Court of Justice continues*".

Now then, this conduct displayed by the majority of congresspersons who at present integrate the National Assembly, contravening the constitutional code and in contumacy to several and diverse decisions emanating from various state entities has been a constant and characteristic way of proceeding by the parliamentary majority since it was installed on January 5, 2016, which also determines the nullity of a large part of the proceedings by the National Assembly and which has become manifest in diverse decisions, among which are sentence n° 614 of July 19, 2016, which emanated from this court and which stated:

"It is therefore evident that the second item on the agenda suffered a modification whereby the presentation of the report by the special commission for the rescue of the institutional nature of the Supreme Court of Justice was extemporaneously incorporated as item No. 1, substituting item No, 3 of the first call where it was proposed to debate on the second discussion of the draft law for the partial amendment of the Organic Law on the Comptroller General of the Republic and the National Tax Control System.

This uncontrovertibly proves the flagrant violation by the board of directors and the secretariat of the National Assembly, as well as by the congressmen who endorsed through their votes this affront to the constitutional order and the sentence issued by this court Nº 269 which, as was observed, established "that once the agenda of the day is included in the automated system it admits no modification thereto, in order to preserve juridical security as a preponderant principle in the exercise of the legislative function. Therefore, the judge hereby suspends it until the merits of this motion are proved as per numeral 6 of the aforementioned article, since it collides with the foregoing".

By reason whereof, it is the duty of this court to annul the call and regular session of the National Assembly of July 14, 2016, together with the acts produced therein and to instruct the board of directors, the rest of the congressmen who incurred in the irregularities mentioned in this sentence and ultimately that institution in general, to faithfully respect the order set forth in the constitution of the Bolivarian Republic of Venezuela, the enforcement and effectiveness of which, in light of these acts that definitely constitute patent deviations of power and constitutional fraud, shall be protected unrestrictedly by this maximum court of the Republic, in tutelage of the Venezuelan people and the Nation's interests. And it is therefore so decided.

Ultimately, by way of the possible commission of crimes against the national powers and against the administration of justice, among other protected legal goods and other forms of legal responsibility, it is instructed to send a certified copy of this sentence to the public prosecutor's office for the corresponding legal purposes. And it is therefore so decided."

It is also worth noting that in sentence n° 478 of June 14, 2016, this court declared the following:

"…the National Assembly, its President, board of directors and members in general are instructed to abstain from trying to direct the foreign relations of the Republic and in general, deploy proceedings that are not encompassed in the competencies corresponding to it as per the legal code in force and that, on the contrary, constitute exclusive and excluding competencies of others branches of the public power or else incur in the corresponding constitutional responsibilities, especially the provisions foreseen in articles 137 and 138 of the constitution of the Bolivarian Republic of Venezuela, based on which "the Constitution and the law define the attributions of the entities that exercise the public power, to which the activities they must carry out must be subordinated" and "Any authority that is usurped is inefficient and its acts are null and void". And it is therefore so decided."

Likewise, it is worthwhile mentioning sentence n° 460 of June 9, 2016, in which this court expressed the following:

"…Notwithstanding the foregoing pronunciation, this constitutional court cannot cease to observe that, to sanction the Special Law to Attend to the National Healthcare Crisis, the National Assembly once again set aside compliance of the parameters demanded in the law-creating procedure, and especially those foreseen in its internal and debates regulations, in light of sentence n° 269 issued by this court on April 21, 2016, which agreed that: "(…) the report on the impact and incidence on the budget and the economy, or in any event, the report from the department of economic and financial advice of the National Assembly which must accompany every draft law, as referred to in numeral 3, article 103 of the Internal and debates regulations of the National Assembly, are essential and compulsory requirements without which there can be no discussion as to any draft law, and that these in prevision of articles 208, 311, 312, 313 and 314 of the Constitution must be of compulsory consultation by the National Assembly through its board of directors to the national executive by way of the executive vice-president for the purposes of determining their economic feasibility, even those sanctioned as of the date of publication of this verdict, so as to preserve the principles of efficiency, solvency, transparency, responsibility and fiscal balance of the tax regime of the Republic, taking into consideration the nation's financial limitations, the prudent level of the size of the economy and the exceptional economic condition decreed by the national executive (…)". This requisite was ratified by the court through verdict number 327 on April 28, 2016, to offer motives for the partial annulment of the Law on Food and Medicine Stamps for Pensioners and Retired Persons.

This being the situation, the law that is the object of this preventive constitutionality control also incurred in procedural vices that result in it being declared unconstitutional. And so it is hereby declared.

(…)

With respect to the foregoing, this court observes that in accordance to numeral 4 of article 236 ejusdem, article 226 of the constitution of the Bolivarian Republic of Venezuela sets forth that the President of the Republic is the Head of State and as such, is in charge of directing the foreign affairs of the Republic, as per the principles in the fundamental text, as per the following terms:

'Article 226. The male or female president of the Republic is the male or female head of state and of the national executive, and as such directs the actions by the government'.

'Article 236. The following are attributions and obligations of the male or female president of the Republic: (…)

4. Direct the foreign affairs of the Republic and enter into and ratify international treaties, conventions or agreements'.

This being the situation, the constitutional text is clear by stating that the President of the Republic as the Head of State is in charge of directing the foreign affairs of the Republic. In that regard, this court, in sentence N° 967/2012, case Pedro Pereira Riera and Inés Parra Wallis, in determining the content and scope of article 153 of the Constitution, set forth the following:

'Now then, a verbatim and systematic approach to the constitutional code on the subject mentioned supra is consolidated by a pragmatic and teleological interpretative perspective linked to the nature of international relations according to which, although these must respond to the abovementioned substantive elements and compliance of the corresponding formalities (vgr. Article 187.18 of the Constitution), cannot be limited to such an extent that they deny -or vacate the content of- the particularly discretionary nature attributed to it by the fundamental text to the attribution of the President of the Republic to direct the foreign affairs of the Republic and enter into and ratify international treaties, conventions or agreements, as per the precise terms in article 236.4 ejusdem (Omissis).

For this reason, in its jurisdictional work the court cannot assume an interpretation that disowns the consequences of adopted a restrictive criterion on constitutional institutions, that unjustifiably limit the development of norms and the activities produced to execute them, especially on the subject of international relations in which the reality that is subject of being regulated is essentially mutable, consequently demanding greater amplitude in the conception of the principles ordering the legal code (…)

Based on this, it is observed that the President of the Republic assumes in this subject matter affairs of particular political transcendence, so it can be said that State decisions involve a general determination or direct or indirect manifestation of the sovereignty of the State in regards to other states or international entities. The discretionality inherent to the competencies he or she assumes are framed within what the doctrine has denominated functions as the head of state, and said characteristic is a necessary manifestation of the eminently political nature of his or her function which implies an act of sovereignty when facing other states and international entities with which the Bolivarian Republic of Venezuela maintains relations -Vid. Sentences of this court Nos. 1.815/2004, 1.117/2006 and 1.115/10; MARIENHOFF M. Treatise of Administrative Law. 1965. Editorial Abeledo Perrot. Volume II. p. 685-754-.

It is therefore not possible to assume an interpretation the aim of which is to regulate -and annul- an eminently political function marked by circumstances of opportunity and convenience in order to guarantee the content of articles 3 and 152 ejusdem, that would end up affirming for example the repeal of the pre-existing legal code by international standards, inasmuch as in that case the incidence of the denunciation of an international treaty, would not become a reality in the internal legal code or at least would be inefficient and void, which could generate or perpetuate the Sovereign prejudice the aim of which is to be avoided upon the conclusion of an international treaty or convention'.

In effect, directing international relations is part of the subject matters reserved to the exclusive competency of the President of the Republic, which entail among other duties procuring the sovereignty and integrity of the national territory, the defense of the Republic, international cooperation, signing and ratifying international treaties, conventions or agreements and designating the heads of diplomatic missions, all of which are to procure to make of the State an effective decision-making unit with influence before other states (GARCÍA PELAYO, "Derecho Constitucional Comparado". Madrid. Alianza. "2000. Page 19).

This court deems it important to indicate that the statement of motives in the constitution of the Bolivarian Republic of Venezuela, referring in particular to section five entitled "On International Relations", Chapter I, "On Fundamental Provisions" states that:

'In the Constitution, the international relations of the Republic respond to the goals of the State in exercising its sovereignty and to the interests of the people. This section sets forth the principles of independence, equality among the states, free determination and non-interventionism, the peaceful solution of international conflicts, cooperation, respect for human rights and solidarity among peoples. Besides the defense of these principles, the Constitution imposes on the Republic the practice of democracy in the participation and decision-making within international organizations and institutions.

Latin American and Caribbean integration is fostered and acquires constitutional rank in the quest for the creation of a Community of Nations. For said purposes, the subscription and ratification of international, bilateral and/or multilateral treaties is permitted within the framework of supranational integration processes. Consequently, any decisions adopted by supranational agencies arising from integration processes are of direct and immediate application in Venezuela'.

Congruent with the tenets in the statement of motives, articles 152, 153, 154 and 155 of the fundamental text set forth that:

(…)

Therefore, from the transcribed constitutional precepts it is clearly observed that one of the pillars serving as the basis for refounding the Venezuelan State are more vigorous, sovereign and protagonic international relations based on a multipolar world where the interactions among the states are respectful and egalitarian.

(…)

As already stated, in principle the discretionality inherent to the competencies assumed by the head of state is a necessary manifestation of the eminently political nature of his or her function, which implies an act of sovereignty before other states and international entities with which the Bolivarian Republic of Venezuela maintains relations and therefore, if or when the National Assembly establishes hierarchical or preferential regimes, this is a blatant usurpation of said competencies attributed to the President of the Republic as per numeral 4, article 236 of the constitution and, on the other hand, said discretionality can only be connected in its broadest sense to the constitutional text which in this case determined that international relations with Ibero-American nations must be privileged as a common policy for all the nations in Latin America, as determined in article 153 ejusdem.

As was expounded on in previous lines, international relations are of a changing nature and depend on each nation's internal factors as well as factors outside of them: whereby international cooperation must be established in accordance to the reasons of opportunity and convenience for the loftiest interests of the nation and it is not the role of the legislator to petrify in a law the modalities therein assumed, as per variables that mute according to how the subjects of international law behave. For this purpose a differentiated criterion must be assumed within the framework of a policy that, in the case of our nation is in the Second Socialist Economic and Social Development Plan for 2013-2019 (The Plan for the Homeland), which sets forth as its major historic objective to"Contribute to the development of new international geopolitics in which a multicentric and pluripolar world takes shape that would permit the achievement of the balance of the universe and guarantee peace in the planet".

(…)

Additionally, this court cannot help but observe the notorious, public and communicational event which is the evident effort on the part of the national executive to resolve the situation of lack of medicines and medical supplies. In this regard, we must underscore the international cooperation received by the government of the People's Republic of China consisting in "96 tons of medicines" as stated in the official web portal of the popular power ministry of foreign affairs, which were purchased by the national government by means of an integral cooperation convention with the People's Republic of China…".

Likewise, more recently, by means of decision n° 797 of August 19, 2016, this court saw the need to express the following:

"Notwithstanding the foregoing, it is public, notorious and communicational, as evidenced from the web page of the National Assembly, that the board of directors of the National Assembly has stated that the precautionary measures issued by this court in sentence n° 269 of April 21, 2016 are "absolutely null" as per a communiqué dated July 5, 2016 which appeared in the following web link: (http://www.asambleanacional.gob.ve/uploads/documentos/doc_1cce92be2c893e0f0f266ac32f05e89d7ad28579.pdf), which reads as follows:

The aforementioned sentence of the constitutional court seriously infringes the constitutional and democratic order and cuts off the right to defense at trial of the National Assembly, as per a decision in which it also threatens to sanction the President of the National Assembly in light of the alleged noncompliance of absolutely null precautionary measures, among other reasons for having been ratified without permitting the National Assembly to exercise the right to defend itself from them by means of its own legal representation (…).

Since the publication of sentence n° 269, it has been the object of pronunciations by the congressmen currently comprising the majority in parliament and especially by its president, citizen Henry Ramos Allup, who evidenced his position contrary to the compliance of the instructions contained therein which -according to the power of effective legal protection-seek to strike a balance and maintain democratic order in the national legislative body. The declarations can be found here: (http://www.el-nacional.com/politica/Alfonso_Marquina-Parlamento-

TSJ- sentencia_0_836316655.html); (http://www.lapatilla.com/site/2016/05/03/ramos-allup-no-acataremos-ninguna-sentencia-del-tsj-que-viole-la-constitucion/).

In effect, the article which appeared on April 28, 2016 on web page http://www.unbombazo.com/2016/04/28/cinicos-del-tsj-ramos-allup-no-acataremos-recurso-5-anos/, reads as follows:

"(...) The president of the National Assembly, Henry Ramos Allup, stated this Thursday April 28 that it shall not obey the sentence by the constitutional court of the Supreme Court of Justice (TSJ) on the parliament's internal and debates regulations after a petition made in 2011 by representatives of the opposition when the official party held the majority in congress.

Part of the wording in the sentence indicated that the daily sessions and agenda must be disclosed as a minimum 48 hours prior. The decision has been questioned by the current parliament since it considers it extemporaneous and of a political nature.

'The internal and debates regulations have been amended through an unconstitutional decision of the constitutional court reviving a motion which had been in the constitutional freezer for five years and which was never modified so as not to affect the exercise of the National Assembly you used to control in the past, but in synthesis and ultimately this National Assembly shall strictly apply the Constitution. We are not going to comply with any decision by the constitutional court which runs counter to the Constitution or that violates the elemental norm' (...)". (underscored in the original verdict).

It was thus observed that it was denounced that the members of the board of directors of the National Assembly, in the first place called those sessions without complying with the prior time frame of forty-eight (48) hours set forth by this constitutional court in the abovementioned sentence, by interpreting article 57 of the internal and debates regulations of the National Assembly.

Likewise, it was denounced that on April 28, May 3 and 5, 2016 happenstance changes were made to the day's agendas, once again incurring in flagrant noncompliance of sentence n° 269 of April 21, 2016 and therefore breaching the constitutional order that must prevail in the democratic institutions of the Bolivarian Republic of Venezuela. Circumstances that compel this court to exercise its precautionary power without this constituting any advance as to the merits of the issue submitted in the principal motion, this court in order to preserve the rights to effective legal tutelage, due process, the right to defense and the principles of juridical security and constitutional order tenets in respect of the balance in the institutions comprising the national public power for the preservation of democratic order, in attending to the alleged violation of the provisions in the aforementioned sentence issued by this Constitutional court Nº 269 by de the board of directors and the secretariat of the National Assembly as well as by the congressmen comprising the majority in the parliament, who endorsed through their votes the decisions adopted at the sessions held on April 26 and 28, and May 3, 5, 10, 12 and 17, 2016, agree to establish a precautionary protection as requested by the plaintiffs and therefore grant the suspension of the effects of the sessions held on April 26 and 28 and May 3, 5, 10, 12 and 17, 2016, jointly with the acts produced therein and instructs the National Assembly through its President, based on the provisions in article 26, 49 and 257 of the constitution, to send any documentation evidencing compliance of the precautionary measures decreed in verdict n° 269 of April 21, 2016, in regards to the call to the aforementioned sessions and the day's agenda set for each of these with the warning that said mandate must be complied with, as per the provisions in article 31 of the Organic Law on the Supreme Court of Justice. And it is therefore so decided." (underscored in the original verdict).

Ultimately, it must be concluded that said acts which also run counter to the provisions in articles 226 and 336 of the constitution, among other provisions, constitute indubitable samples of usurpation of functions and deviation of power, as warned by this court in sentence n° 259 of March 31, 2016, in which it stated the following:

"...the court evidences that any legislative acts that may interfere with the actions of the national executive during the enactment of a validly declared state of economic emergency may make intentionally nugatory the functions of the national executive, thereby evidencing a deviation of power, as per the terms justified in this verdict".

The effects and consequences of acts arising from usurped authorities have been made manifest by the jurisprudence of this Constitutional court (as highlighted by the electoral court in its August 1st, 2016 decision), by means of decision n° 9 of March 1st, 2016, which stated:

"(...) article 136 ejusdem commence the fundamental provisions of the public power, as per the following terms:

Article 136. The public power is distributed between the municipal power, the state power and the national power. The national public power is divided into the legislative, executive, judiciary, citizen and electoral powers.

Each of the branches of the public power has their own functions, but the entities incumbent to the exercise thereof must collaborate among each other in the conduction of the State's purposes and objectives.

In this respect, the statement of motives of the Constitution states the following:

(...)

A division of vertical and horizontal functions is likewise consecrated, corresponding to each branch of the public power. Although the specialization of each task assigned to each one of them is accepted, a regime of collaboration among the entities that are to develop them is established for the enhanced achievement of the State's general purposes.

The restrictive principle of competency is established, based on which the entities exercising the public power can only carry out those attributions which are expressly consecrated as per the Constitution and the law.

The usurpation of authority, consisting in the invasion of the public power by persons who are not publicly invested, is considered to be ineffective and invalid and the acts issued thereby are deemed to be null.

Insofar as the individual responsibility resulting from the exercise of the public power is concerned, it encompasses the abuse of power, deviation of power and violation to the Constitution and the law.

(...)

The democratic and social rule of law and justice consecrated in the Constitution -fundamentally implying the division of State powers and the preponderance of the Constitution and the laws as an expression of the people's sovereignty, the submittal of all public powers to the Constitution and the rest of the legal code, effective procedural warranties, human rights warranties and the warranty of public liberties- requires the existence of certain agencies that are institutionally characterized for their independence and have constitutional authority to impartially execute and apply the regulations that express the will of the people, subject all public powers to compliance with the Constitution and the laws, control the legality of administrative acts and offer valid protection to all persons in exercising their legitimate rights and interests.

The series of entities that carry out this function constitute the judiciary power and the justice system as consecrated in Chapter III of Title V of the Constitution, configured as one of the State's powers.

In said chapter, based on the principle of sovereignty, the Constitution declared that the power to administer justice emanates from the citizens and is imparted in the name of the Republic, as per the authority granted by the law.

(...)

In this regard, and based on the necessary jurisdictional control over the acts, omissions and de facto procedures emanated from the electoral power a propos of the aforementioned election processes, their operations, the new constitutional text created the electoral contentious jurisdiction exercised by the electoral court of the Supreme Court of Justice.

(...)

In this respect, since the judiciary power is subject to constitutional regulations and boundaries, the national executive power, the national legislative power and all other public powers are also subject thereto, as well as all the male and female citizens due to the preponderance of the principles of constitutional supremacy and rationality. Therein that any attempt of abuse on said constitutional regulations constitutes an affront to the fundamental order and the dignity of the male and female citizens, values which can only be defended through the direct knowledge of the Constitution, which is the sole valid tool instrument to appreciate the truth, avoid manipulations and counteract illicit actions (bold lettering added by this verdict)".

In this regard, the logical consequence of the diverse multifactorial contempts deployed by a sector that directs the National Assembly from the legal theory of nullities is to generate the absolute nullity and lack of any type of legal validity and efficacy of the proceedings it has been carrying out. And so it is hereby declared.

This assertion must necessarily be so, as a result of a logical application of the law and the due respect and abeyance to the decisions issued by the jurisdictional bodies of the Republic, since the contrary would imply a violation of the effective legal tutelage, due process, juridical security and the constitutional rule of law, entailing contempt for the majesty of justice and the law, which could generate diverse types of general legal, political, ethical and social liabilities..

Thus, the effective legal tutelage expressly acknowledged in article 26 of the constitution implies one of the fundamental pillars on which the notion of the rule of law is based, since the ultimate aim thereof is to ensure the prevalence of the legal order and ultimately respect for the preponderance of the rule of law, which is achieved by ensuring the preservation of the series of legitimate rights set forth in the legal code which comprise the plurisubjective sphere of every citizen and society as a social conglomerate, granting them the certainty that said rights shall be duly ensured and safeguarded for the purposes of attaining their effective enforcement, establishing for this reason a commitment on the part of the State as viewed from the perspective of its jurisdictional function in which said rights shall be provided with the assurance of being effectively materialized and their intangible nature and absolute safeguarding maintained as per the terms of the Constitution legally set forth. It is for this reason that the constitutional precept foreseen in article 26 indicates that they must be in effect protected by the jurisdictional bodies when they are being breached and must resort to them and demand the due protection they are endowed with so as to thus make the notion of justice prevail, which is the ultimate aim of every judiciary proceeding and the very essence of our State.

In this regard, it must be taken into consideration that the content and scope of the right to an effective legal tutelage has been profusely interpreted and developed by the jurisprudence of this constitutional court, the criterion of which was set forth by means of this court's sentence N° 708 of May 10, 2001 which stated:

"This court observes that article 26 of the Constitution in force expressly consecrates the right to effective legal tutelage, also known as jurisdictional warranty, which finds its raison-d-étre in that justice is and must be, as per articles 2 and 3 ejusdem, one of the fundamental values that must be present in every aspect of social life, and must therefore impregnate the entire legal code and constitute one of the objectives of the State's activities, in warranty of social peace. The State must also assume the administration of justice, i.e., the solution of conflicts which may arise among the administrated parties or even the administration itself, for which it commits to organize itself in such a manner that the minimum imperatives of justice be guaranteed and that access to the justice-dispensing bodies set up by the State, in compliance with its purpose, be expedited for all the administrated parties.

The right to effective legal tutelage in the broadest possible sense comprises the right to be heard by the justice-dispensing bodies established by the State, meaning to say not only the right to access but also, having complied with the requirements set forth in the adjective laws, the right for the judiciary bodies to study the merits the causes of action of individuals and by means of a legally issued decision to determine the content and scope of the deducted right, therein that the Constitution in force states that justice shall not be sacrificed due to the omission of non-essential formalities and that the process constitutes a fundamental instrument to dispensing justice (article 257). In a social rule of law and justice (article 2 of the Constitution in force), which guarantees expedite justice, without undue dilations and devoid of useless formalities or reversals (article 26 ejusdem), the interpretation of the procedural institutions must be broad in an attempt that although the process is a warranty for the parties to be able to exercise their right to defense, nor for this reason becomes a hindrance preventing the attainment of the warranties established in article 26 of the constitution.

The conjugation of articles such as numbers 2, 26 or 257 of the Constitution of 1999 forces the judge to interpret the procedural institutions at the service of a process the goal of which is the resolution of the merits of a conflict in an unbiased, ideal, transparent, independent, expedite manner devoid of useless formalities and/or reversals." (highlights in the original verdict).

Therefore, the true meaning of the right to effective legal tutelage as consecrated in our constitutional text matches the need for it to be efficacious in real life, that its effects be truly and factually materialized, in order to attain true justice as consecrated in the Constitution and for this reason the real *telos* of the jurisdictional function is precisely consummated the moment the verdict is made effective and the rights which by means of the legal decision are protected are made effective so as to thus preserve the rule of law and justice that is binding to the existence of the Republic.

The same conception around the execution of the sentence as one of the incontrovertible manifestations of the right to effective legal tutelage was likewise made manifest in this court's decision nº 576 of April 27, 2001, which declared the following:

"Article 26 of the constitution of the Bolivarian Republic of Venezuela ... consecrates the jurisdictional warranty, also called the right to effective legal tutelage, which has been defined as such, attributed to each and every person to access justice-dispensing bodies so that their causes of action be processed by means of a legal proceeding that offers some minimum warranties, all of which is only possible when the principles set forth in the Constitution are complied with. It is therefore the jurisdictional warranty, the right of access to justice by means of a process directed by a body, also pre-established for said purposes by the State to obtain a decision issued as per the right by means of the use of procedural pathways prescribed for the specific aim pursued, it being understood that said right under no circumstances encompasses that the decision be as requested by the plaintiff or favor their cause of action, nor that the course thereof observe all the procedures and incidences the plaintiff considers to be favorable to him. The right to effective legal tutelage likewise encompasses the right to executability of the sentence obtained as per the law".

This criterion has been reiterated by this court in sentence n° 290 of April 23, 2010, which stated:

"Certainly, the law being examined implements an organic procedural system expressly set forth in the Constitution, that makes it feasible to exercise the adjective rights of access to justice (legitimation, expiration of actions, lawsuit requirements, among others), the right to the natural judge (determination of the competencies of the contentious administrative courts), precautionary tutelage (justification conditions on precautionary measures), due process (substantiation procedures on annulment causes of action, patrimonial lawsuits and interpretation of laws, among others) and the right to execution of the verdict (procedure of drafting a writ or judgment on what has been decided), which comprise the right to effective legal tutelage within the scope of jurisdictional control over administrative proceedings by the public powers".

The scope of the right to an effective legal tutelage can be surmised from the transcribed jurisprudential criterion which, as a complex right which in fact it is, not only encompasses the right of citizens to access the jurisdictional entities to air their causes of action and that they be settled as per due process that guarantees their warranties and rights, but is also extensive to the executability of the sentence resulting from said lawsuit.

From the foregoing it is clear that since the executability of the sentence is a cardinal manifestation of the right to effective legal tutelage as per article 26 of the constitution of the Bolivarian Republic of Venezuela, any act the aim of which is to prevent or

impair the materialization of said right to executability and execution of a legal decision patently becomes a violation to the abovementioned right to an effective legal tutelage.

The foregoing, applied to rulings, makes public that the acts deployed by the National Assembly, not only by proceeding to swearing in and incorporating new citizens as congresspersons of said parliamentary entity, contravening the express provision contained in a judiciary verdict, but also by continuing to disown the provisions in a sentence emanated from this maximum court in the electoral court, in which the nullity of any act emanating from said parliamentary entity was determined in contumacy and rebelliousness to the provisions in said decision, meaning to say, without having formally disincorporated citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen of said National Assembly, translates into the absolute nullity of said acts thus emanated, jointly with those derived therefrom (see sentence n° 2/2017) due to the express contravention of a legal mandate, which breaches and disowns the notion of democratic and social rule of law and justice as set forth in article 2 of the constitution, the right to effective legal tutelage (article 26), the provisions in article 253 of the constitution and the constitutional order as a whole, therefore said acts are absolutely null and void and devoid of any legal validity and efficacy whatsoever. And so it is hereby declared.

As per the foregoing, this situation of contempt "*incapacitates the legislative power from exercising its constitutional attributions of political management control*", as declared by this court in sentence n° 3 of January 14, 2016, which stated as follows:

> "*This constitutional court proceeded to analyze the request for unconstitutional omission filed by the attorney general of the Republic against the National Assembly to receive the accounts rendering message from the president of the Bolivarian Republic of Venezuela (the executive power) on the political, economic, social and administrative aspects of its performance during 2015 as per article 237 of the constitution of the Bolivarian Republic of Venezuela on the occasion of sentence N° 1 issued on January 11, 2016 by the electoral court of this high tribunal in which it decreed the contempt of the legislative power (board of directors) in complying with the precautionary measure agreed upon by that jurisdiction body in sentence N° 260 issued on December 30, 2015, incapacitating the legislative power from exercising its constitutional attributions of political management control.*"

With respect to said political control, in sentence n° 9 of March 1st, 2016, this court established the following:

> *"…As can be observed and is herein acknowledged by this top court of the Republic, the national legislative power is entrusted with political control functions through which it can prosecute its causes of action, always within the general constitutional and legal order since this is not only the warranty for stability and democracy in the Nation but of respect to the fundamental rights. (…)*
>
> *In effect, as can be observed, by expressly delimiting the attributions of the National Assembly, the Constitution sets forth that this entity's duties are to "Exercise control functions over the national government and the public administration as per the terms set forth in this Constitution and the law". Art. 187.3 of the constitution (Bold letters added).*
>
> *Therefore, in following the constitutional tradition, the constituent acknowledged that the national legislative power, besides deploying its principal duty which is to legislate, it may also exercise control functions over the national Government and the public administration, meaning to say over the national executive power as per the terms set forth in this Constitution and the law, meaning to say within the framework of the cardinal principles of autonomy and collaboration among public power bodies to attain the State's goals (see for example articles 3 and 136 of the constitution); An appreciation which results from the logical consideration among the aforementioned constitutional regulations.*
>
> *Thus, the competent provision in question limits the control of the National Assembly on the power over which it has historically had political control competency, meaning to say on the national executive and in turn the Constitution assigns control functions over it, even in the exceptional case foreseen in article 236.21, meaning to say to dissolve the National Assembly so as to avoid serious perturbances to the exercise of the constitutional competencies which in turn correspond to the government and to the public administration, in prejudice to the common good of all male and female citizens, and ultimately to protect the constitutional operations of the State and the general collective.*
>
> *On this aspect, the statement of motives in the Constitution expressed the following:*
>
> > *"A government action that does not count on a certain level of endorsement from the legislative power would at some moment in time lead to the possibility that the National Assembly may pass a censorship vote on the vice-president which would automatically remove him from his post. But as balance to this political control power by the National Assembly and so that the continuous removal of vice-presidents does not become an obstructionistic practice, the Constitution wisely consecrated the faculty of the President to call early elections at the National Assembly when a vice-president is removed for the third time within a six-year presidential period. This faculty is discretionally exercised by the President.*
> >
> > *This double control among the legislative and the executive powers constitutes a system for the balance of power that also permits institutional outlets to political crises or crisis of government, thereby increasing the level of governability in democracy. Thus a range of political institutional stability for democracy is made possible and extrainstitutional ways out are avoided".*

... The National Assembly may declare the political responsibility of the public officials and request that the citizen power undertake the necessary actions to enforce it (…)

As author Brewer-Carías points out in the prologue to the publication by author Juan Miguel Matheus entitled "*The National Assembly: four profiles for its constitutional reconstruction*":

The National Assembly, as a single-chamber parliamentary entity, is one of the organs of the State resulting from a system of separation of powers which, as we know, in Venezuela consists of five powers: the legislative, the executive, the judiciary, the citizen and the electoral powers (art. 136). This system of separation of powers in principle should originate a scheme of balances and counterbalances so that each power be in effect independent and autonomous in regards to all others, as formally expressed in the Constitution, particularly in a presidential government system as the one we have in the nation"

[The] system of balances and counterbalances which, based on effective autonomy and independence among the powers, should fundamentally imply that the permanence of the holders of positions in public powers must not be subject to the decision of other State powers save for those in respect of the competencies of the Supreme Court of Justice to judge top State officials. This means to say that, save for these trial suppositions, all public officials appointed as holders of positions in public power bodies may only cease in their functions when their mandates are revoked by means of a referendum. Whereby, non-elected holders of posts in public powers should have a right to remain in their posts throughout the period of time of their mandate".

http://www.allanbrewercarias.com/Content/449725d9-f1cb-474b-8ab2-41efb849fea9/Content/II.5.59%20PROLOGO%20LIBRO%20JUAN%20M.MATHEUS.pdf (…)

Additionally, on the political control and the juridical control within the framework of comparative legal science, author Hernán Salgado Pesantes in his book entitled "Theory and Practice of Political Control. Political Trials in the Ecuadorian Constitution", published in the 2004 Journal of Latin American Constitutional Law by the Universidad Nacional Autónoma de México, pointed out the:

"Characteristics and differences between political control and juridical control.-

Upon analyzing the characteristics of political control the majority of authors, whose criterion we share, underscore their subjective condition or nature from whence derive very specific aspects that configure this institution. It is subjective in nature in the sense that political control is based on criteria of trust and opportunity. Its valuation lies in the free appreciation of he who judges.

Juridical control, on the other hand, is objective in nature in the sense that it is more rigorously based on the regulations in the law which have a predetermined valuation and is based on rules that limit the discretionality of he who judges, as shall be insisted upon later.

The objective nature of juridical control also has to do with the principles of independence and impartiality that characterize the judges that oversee jurisdictional matters. On the other hand, in political control neither independence nor impartiality are necessarily the case in the judging body. There may be, as in effect exists, party-prone discipline and political commitments or alliances, coupled to the sense of timing or opportunity.

All agents or persons exercising political control are determined by virtue of the political condition and not their legal education and knowledge, as is the case in the jurisdictional entities (...)

Upon examining the valuation criteria used in political judgments a clear difference can be established with juridical control. In the former, valuation is conducted with an absolute freedom of criterion (given its subjective nature) and in the latter, its valuation is subject to objective law regulations. In political control there is that freedom of valuation, even when the rule of law determines the case or conditions whereby said control is to take place. It is interesting to read what professor Aragón says in this respect:

'When a political body resorts to the Constitution, or another norm to judge a specific conduct or act, it is of course interpreting said norm but it is interpreting it politically and not from a juridical standpoint. Unlike the judicial interpretation, it i entirely free and based not on legal motives but on timing and opportunity, i.e., it is a valuation effected for political reasons and not by means of legal methods'.

Even in the case of alleged unconstitutionality, although the legislators offer very strong legal reasons, as Aragón states, "Said decision is not taken by the force of law but by the votes; it is not the decision of a legal entity but of a political one. It is a totally free decision [...] and not as the judiciary body which must interpret it on the only manner that is deemed valid". (...)

In this respect, and as is usually rightly stated, here there is a substantial difference with juridical control since, while it necessarily implies a sanction, political control does not in general and constantly

entail sanction-based effects per se; they exist in specific cases foreseen in the legal code.".

http://www.juridicas.unam.mx/publica/librev/rev/dconstla/cont/2004.1/pr/pr19.pdf

Author Giuseppe Graterol Stefanelli stated in his publication "*The Parliamentary Control Function in Democracy in the Rule of Law*", Cedice, 2013, p. 6 and following, that:

"In Venezuela, political control does not count on a proper regulatory basis and this weakens the possibility of its effective exercise. Proof of this is that respect for the minority in parliament is almost inexistent in the 1999 constitution. Suffice it to read article 222 which sets forth the parliamentary control function to have an idea of the situation: (...)

It is evident that the above quoted provision formally sets forth parliamentary control. But, to understand how parliamentary control regulates the constitutional legal code, two questions must be answered:

(i) Who is the active subject of parliamentary control? Or who exercises this control? For said purposes the provision is clear: the function is in the hands of the National Assembly which is a collegiate body, meaning to say that its manifestation of will is governed by the majority rule (as the case may be: absolute, simple or qualified).

(ii) What is the scope of parliamentary control?

The provision states that political responsibility may be declared, with which unduly the scope of exercise of parliamentary control is reduced to a declaration or not as to the political responsibility of the public officials of the national government. This means to say that said declaration, as a manifestation of will, is governed by the majority rule.

As per this vision on parliamentary control, it is evident that the provisions on this subject matter in the 1999 constitution are what in the studies on the topic have called control in the hands of the parliament.

And for this reason the exercise of said control by the majority in parliament, given the current dynamics in parliament (which acts as an extension of the national government in Venezuela and other democratic nations), becomes impracticable as a control. Thus, political control by parliament that accepts parliamentary minorities is inexistent based on the isolated interpretation of the aforementioned constitutional provision.

-highlighted added- http://cedice.org.ve/wp-content/uploads/2013/12/N%C2%B04-La-Funci%C3%B3n-Parlamentaria-de-Control-en-Democracia-y-en-un-Estado-de-Derecho-FINAL.pdf

(…)

Thus, one principal expression to which this political parliamentary control is circumscribed in regards to the head of the national executive (article 226 of the constitution) is evident in article 237 *ejusdem*, based on which the male or female president of the Republic shall address in person every year a message to the National Assembly giving accounts of the political, economic, social and administrative aspects of his or her performance during the immediately previous year as per the scope over which the control held by the head of state and the national executive is adjusted.

In turn, in respect to the male or female executive vice-president, a direct and immediate collaborator of the male or female president of the Republic acting as male or female head of the national executive (article 238 of the constitution) said control is expressed in the censorship motion thereto within the framework of the constitution (article 240 *ejusdem).*

In turn, with respect to the male or female ministers, parliamentary control finds its essential expression in article 244 of the fundamental text, which sets forth that they shall "*present before the National Assembly within the first sixty days of every year reasoned and sufficient accounts of their performance at the dispatch they are head of during the immediate previous year as per the law*".

Therefore, said control in the first place refers to the presentation of the rendering of accounts as per the conditions instructed in article 244 *ejusdem*. In turn, article 245 of the constitution, as a counterbalance system, offers the right of rebuttal to the male or female ministers before the National Assembly and its commissions and even sets forth that they could take part in National Assembly debates without the right to vote, also within the framework of the constitution and therefore within the framework of the tenets of usefulness, need, rationality, proportionality and collaboration towards the internal affairs of the public power.

Next, article 246 foresees the consequences of exercising parliamentary control over male or female ministers, setting forth that "*the approval of a censorship motion on a male or female minister through the vote of no less than three fifths of the members present at the National Assembly implies the removal thereof. The removed male or female official may not be a candidate to the position of male or female minister and/or executive vice-president for the remainder of the presidential period*". Evidently this action, as well as any other, must be compatible with the rest of the rules, values and constitutional principles.

Besides these cases, with respect to any other public official of the national executive power, not including the male or female president of the Republic, male or female executive vice-president and male or female ministers, political control in this context is made concrete through the mechanisms foreseen in articles 222 and 223 of the fundamental text, as per all other underlying rules, values and principles, especially the axiom of collaboration among powers as well as those of usefulness, need and proportionality to achieve its constitutional mandate and therefore prevent that said control affect the proper functioning of the national executive and thus avoid that it end up breaching fundamental rights; for which due coordination with the National Assembly and the male or female executive vice-president must be observed as per article 239.5 of the constitution, to prosecute the cause of action in exercising the aforementioned control (channeling of communications, drafting of the schedule of hearings, etc.) with respect to any public servant of the government and the public administration, for the purposes that as per the foregoing constitution provision, the executive vice-presidency of the Republic centralize and coordinate all matters relating to the communications issued by the National Assembly with the object of deploying the attribution contained in article 187.3 of the constitution, developed in articles 222 to 224 *ejusdem* as well as consideration to the prevailing general political, economic and social circumstances in the Republic at the time of coordinating and exercising said control, as in the present moment in which principally the national executive, as in any president-based or semi-presidentialistic system of government (the elementary characteristic of which is that a large part of the State's cardinal functions fall on the head of said power) is attending especially to the existing economic emergency situation in the nation (see sentence by this court n° 7 of February 11, 2016), a circumstance which merits all the collaboration possible from the sundry bodies of the public power (see article 136 of the constitution) to overcome this exceptional situation which has continued and has regional and worldwide consequences; a circumstance which also calls the national legislative power which especially under these circumstances must weigh the insistence of petitions aimed at the national executive power and even towards the rest of the public powers, could seriously hinder the State's performance in detriment to the complete warranties of the rights of the male and female citizens as well as the inalienable rights of the Nation (see article1 of the constitution)."

Now then, it is a public, notorious and communicational event that on January 5, 2017 the National Assembly began its second sessioning period as per an act inaugurated and fostered by the outgoing board of directors which directed it throughout 2016 and which that legislative body carried out in contempt of the judiciary power (see supra) the election and swearing in of its board of directors for the current period, a circumstance which therefore implies a defect of absolute nullity that affects the constitutional validity of that and all other subsequent acts, as well as the legitimacy and legal efficacy of the swearing in and other acts by the aforementioned board of directors, including the presidency of the National Assembly (not to mention the probable breaches to the internal and debates regulations of the National Assembly). For said purposes the press statement can be posted: (…)

Later on, the board of directors of the elected and sworn in National Assembly, being in contempt, on January 5, 2017 called a session for January 9, 2017 (article 57 of the internal and debates regulations of the National Assembly), the agenda of the day of which included one sole item: "*Debate on the constitutional exercise of the position of President of the Republic by Nicolás Maduro Moros and the need to offer an electoral solution to the crisis*". However, in that session an unforeseen item was inopportunely included in the agenda which was different from that previously announced (the alleged "abandonment of his post" by the acting President of the Bolivarian Republic of Venezuela, citizen Nicolás Maduro Moros), once again disobeying sentence n° 269/2016 (which in compliance of the Constitution and the internal and debates regulations of the National Assembly recognizes the duty of previously announcing the exact content of the agenda and the legal duty to not a mend it extemporaneously, as happened in this case), referring to the alleged disincorporation of citizens Nirma Guarulla, Julio Ygarza and Romel Guzamana from the National Assembly, apparently not to acknowledge the judiciary power but to "*facilitate the debate we are going to carry out this Monday afternoon*" (without mentioning the language used which is far from that which should be used as per the majesty of the position, uttered by several male and female congresspersons in respect to the public powers and officials not working in the national legislative power), as was notoriously recognized by who aspires to hold the position of president of the National Assembly and which was reflected in the web page of the National Assembly:

(…)

In this regard, it was observed that the National Assembly once again acknowledged its situation of contempt and serious violation of the constitutional order, this time derived from the repeated and illegitimate incorporation of citizens Nirma Guarulla, Julio Haron Ygarza and Romel Guzamana as congressmen to said National Assembly, enacting a new "disincorporation" thereof (this time suddenly and violating the internal and debates regulations of the National Assembly and sentence 269/2016, apart from doing so in a deliberately invalidated session since it was chaired by an elected and sworn in board of directors in contempt –contrary to the board of directors that directed the removal act carried out on January 13, 2016, which had not been elected under said circumstance –see sentence by this court n° 2/2017-), once again voluntarily acknowledging the nullity of all their acts deployed in contempt, meaning to say, as can be observed, almost all the acts carried out since its installation on January 5, 2016 save for (in respect to this contempt) those carried out from January 13, 2016 to July 28, 2016 (see sentence n° 3/2016), the brunt of which in turn were void and invalid and even expressly declared as null by this court due to the deliberate violation of the internal and debates regulations of the National Assembly, for being in contempt of other sentences emanated from this top court and ultimately for violation of the constitutional order (see this court's sentences Nos. 269 and 952/2016); a never-before-seen situation in the homeland constitution state which also generates a serious degree of disconcert in the natural proceedings of that State entity whose leaders are called to exhibit their political activities within the limits of the constitution and not out of them and based on procuring the maintenance of the internal order and stability of the Republic so as not to generate and least of all exacerbate crisis situations.

As can be observed, the situation of contempt of the National Assembly has continued and continues uninterrupted, and this determines the current unconstitutional parliamentary omission among others, in respect to the designation and swearing in of the current board of directors as well as subsequent acts deployed by it, including the calls to later sessions and proceedings deployed therein and the parliamentary actions generated in them" (see sentences 2 and 3 of January 11, 2017 and 155 of March 28, 2017, among others).

As can be observed, this court has observed diverse situations of contempt repeatedly incurred in by the National Assembly on the basis of the contumacious conduct by the majority of its members, which absolutely annuls its proceedings and therefore generates a situation at the margin of the rule of law that hinders it from exercising its attributions, a circumstance that places the National Assembly in a situation of parliamentary unconstitutional omission (article 336.7 of the fundamental text), which this court hereby declares in this same act.

In this status, this constitutional court, in exercising the fully legal constitution attributions contained in article 187, numeral 24, hereby continues to analyze and decide upon the case posed.

Article 33 of the Organic Law on Hydrocarbons sets forth that "*The constitution of joint ventures and the conditions that shall govern the undertaking of primary activities shall require the prior approval of the National Assembly, for which purpose the national branch of the executive power (the national executive), through an agency of the Ministry of Energy and Petroleum, shall inform on all pertinent circumstances to said constitution and conditions, including the special advantages foreseen in pro of the Republic*".

On the basis of the declared unconstitutional omission, this constitutional court resolves that there does not exist any impediment for the national executive to constitute joint ventures in the spirit set forth in article 33 of the Organic Law on Hydrocarbons, for which purposes the national executive through the Ministry of Energy and Petroleum shall inform this court on all the circumstances pertinent to said constitution and conditions, including any special advantages foreseen in pro of the Republic. Any further modification to the conditions shall be informed to this court after receiving a favorable report by the Ministry of Energy and Petroleum.

Resolving the interpretation requested as per article 33 of the Organic Law on Hydrocarbons in force, the court has decided that the National Assembly, acting *de facto*, may not modify the proposed conditions nor be entitled to establish other conditions.

Coupled to this it was observed that, on the basis of the State of Exception, the head of state may modify the regulations subject to interpretation by means of an amendment, in correspondence to the jurisprudence of this maximum tribunal (see sentence n° 155 of March 28, 2017).

Ultimately, it is observed that so long as the situation of contempt and invalidation of the actions by the National Assembly persist, this constitutional court shall guarantee that the parliamentary competencies are exercised directly by this court or the body it appoints to oversee the rule of law.

As per the terms herein exposed this case submitted to this top court of the Republic is hereby resolved. And so it is ultimately decided.

VI

DECISION

For the above exposed reasons, this constitutional court of the Supreme Court of Justice, in administering justice on behalf of the Republic per authority granted by the law:

1.- Hereby declares itself COMPETENT to settle this motion for interpretation of the Constitution.

2.- ADMITS the inchoate motion, settles it as per the mere law and hereby declares the urgency of this case.

3.- SETTLES the requested interpretation, as per the binding nature and value *erga omnes* as per the considerations made in the motives for this verdict.

4.- Hereby declares the parliamentary unconstitutional omission and therefore, this court directs:

4.1.- On the basis of the declared unconstitutional omission, this constitutional court resolves that there does not exist any impediment whatsoever for the national executive to constitute joint ventures in the spirit set forth in article 33 of the Organic Law on Hydrocarbons, for which purposes the national executive through the Ministry of Energy and Petroleum shall inform this court on all circumstances pertinent to said constitution and conditions, including the special advantages foreseen in pro of the Republic. Any further modification to the conditions shall be informed to this court after receiving a favorable report by the Ministry of Energy and Petroleum.

4.2.- Settling the interpretation requested as per article 33 of the Organic Law on Hydrocarbons in force, the court decided that the National Assembly acting *de facto* may not modify the proposed conditions nor may it establish any other conditions.

4.3.- On the basis of the State of Exception, the head of state may modify the regulations subject to interpretation by means of an amendment, in correspondence to the jurisprudence of this maximum tribunal (see sentence n° 155 of March 28, 2017).

4.4.- It is observed that so long as the situation of contempt and invalidation of the proceedings of the National Assembly persist, this constitutional court shall guarantee that the parliamentary competencies are exercised directly by this court or by the body it designates to oversee the rule of law.

5.- Instructions are issued to NOTIFY this decision to the constitutional President of the Bolivarian Republic of Venezuela, Nicolás Maduro Moros.

6.- Instructs the publication of this decision in the legal gazette and the official gazette of the Bolivarian Republic of Venezuela, the summary of which must state: "*Sentence of the constitutional court declaring that there exists no impediment whatsoever for the national executive to constitute joint ventures in the spirit set forth in article 33 of the Organic Law on Hydrocarbons, for which purposes the national executive through the Ministry of Energy and Petroleum shall inform this court of all circumstances pertinent to said constitution and conditions, including the special advantages foreseen in pro of the Republic. Any further modification to the conditions shall be informed to this court after receiving a favorable report by the Ministry of Energy and Petroleum*".

Let it be published, recorded and notified. Let these instructions be complied with.

Issue, signed and sealed in the dispatch room of the constitutional court of the Supreme Court of Justice in Caracas, on the twenty-ninth (29) day of March, two thousand seventeen (2017). 206° years of Independence and 158° of the Federation.

The chairperson of the court,

Juan José Mendoza Jover

The vice-chairperson,

Arcadio Delgado Rosales

Magistrates,

Carmen Zuleta de Merchán

Calixto Ortega Ríos

Luis Fernando Damiani Bustillos

Lourdes Benicia Suárez Anderson

Federico Sebastián Fuenmayor Gallo

The secretary,

Dixies J. Velázquez R.

DOCKET N.° 17- 0325

JJMJ/

[1] *Vid*. Sentence of the political administrative court of the Supreme Court of Justice N° 0785 of July 2, 2015.