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LEGAL ALERT

Law No. 21,488 sanctions the crime of timber theft

On September 27th, 2022, Law No. 21,488 was enacted, incorporating new crimes in the Chilean Criminal Code sanctioning the theft of timber.

The new regulation, in its first article, adds the "Paragraph IV ter. of the theft of timber" in the Chilean Criminal Code to grant a special regulation of these crimes. Thus, if the value of the timber obtained through the theft exceeds approximately USD 615.00, an accessory penalty will be applied consisting of a fine of USD 4,615.00 to USD 6,154.00.

Additionally, in those cases in which the stolen timber exceeds approximately USD 3,077.00, or it was committed in a consistent pattern or as an organized act, the Public Prosecutor's Office is authorized to make use of special investigation techniques, such as undercover agents and informants (Section 226 bis of the Criminal Procedure Code).

At the same time, the new law sanctions as theft of timber anyone who possesses timber pieces or logs without being able to justify its licit origin, or whoever is discovered with timber on someone else's property without the owner's consent.

Regarding the use of false documentation to illegally transport or trade timber, the New Law imposes a penalty of up to 5 years imprisonment.

To prevent the perpetration of timber thefts, the new law imposes new obligations on the timber industry. Those who produce, sell, store or stockpile logs of wood, need to implement electronic dispatch guides, following the regulation to be issued by the Treasury Department -within 4 months from the new law was published in the Official Gazette- which must be signed by the Home Office Department (Ministerio del Interior y Seguridad Pública), and the Agriculture Department. The electronic dispatch guides will be enforceable 6 months after the publication of such regulation in the Official Gazette.

The supervision of the new law will be in charge of Carabineros de Chile (Police Department) and the Corporación Nacional Forestal, but the Tax Revenue Office may also conduct inspections according to the general rules, especially

regarding the control of the sale tax.

Please consider that the theft of timber may generate criminal liability for legal entities, as they are included in the list of crimes of Law No. 20,393 (“Corporate Criminal Liability Law”). However, it is important to mention that the new law did not establish the sanction that would apply to the commission of these crimes and, therefore, for the moment, it would be inapplicable to legal entities until Congress amend this legislative error.

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