
US companies, main targets of controversial law against Cuba

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US companies are the main target of the 25 lawsuits filed under Title III of the Helms-Burton Act, activated a year ago today as part of the increasing hostility of the US administration against Cuba.

The controversial Helms-Burton, which was approved by the United States Congress in 1996, codifies the economic, commercial and financial blockade imposed by Washington almost 60 years ago against the island and highlights the extraterritorial nature of that fence.

Despite its entry into force at that time, all administrations have since then suspended the application of Title III, which allows US nationals to sue those who 'traffic' with 'North American properties' in Cuba.

Through such a mechanism, the possibility is given to promote action in the United States courts against individuals and entities, even from third countries, that invest in Cuban territory in nationalized properties after the triumph of the Revolution on January 1, 1959.

In what is seen as a contradiction to international law, that section grants claimant authority to Cuban-Americans who were Cuban citizens at the time the properties were nationalized.

The decision of the Donald Trump executive to implement such a provision came despite the fact that various North American sectors and traditional partners of Washington such as the European Union (EU) and Canada called not to take this step, given the damages that companies from those territories could receive.

During the 12 months since the activation of the title, the effects of US policy are increasingly adverse for the island, both due to the effect of that specific measure, aimed at preventing foreign investment, and many other restrictions and attacks against the economy and development of the Caribbean country.

But, at the same time, the results of the implementation of the criticized legislative section do not seem to be those expected by the Trump administration, since the number of lawsuits filed so far is much lower than expected, and it is the North American companies that are the most hit by this action.

John Bellinger, who served as legal adviser to the State Department during the George W. Bush administration (2001-2009) and was responsible at that stage for the implementation of the Helms-Burton, recently considered the activation of Title III has been a failure and should be reversed.

In an opinion article published in April in the National Law Journal, the expert pointed out that with the application of that section for the first time, the Republican Executive sought to persuade foreign investors to leave Cuba and thus deprive them of providing resources to the island's government.

The administration may also have hoped to score political points by allowing Americans - especially Cuban Americans in Florida - to sue foreign companies in United States courts, he estimated.

However, the real bottom line, Bellinger added, is that most of the defendants have been U.S. companies whose activities are related to Cuba in only a minor way, rather than Cuban or foreign companies that now own or operate properties in the island.

A similar conclusion follows from the data released by the organization Economic and Commercial Council of the United States-Cuba, published yesterday, that the firms based in the United States represent 45.4 percent of the defendants under Title III, while 11.3 percent correspond to EU companies.

More disappointing for the Trump administration, according to that entity, is that only five Cuban companies were named in the legal actions, and currently only two remain the target of any lawsuit.

So, for Bellinger, 'the Trump administration acted hastily when it activated Title III and ended up causing significant legal burden and expense for many American companies,' adding to the fact that such legal processes can be lengthy, given the characteristics of the North American judicial system.

At the same time, that puts the United States in a bad position vis-à-vis close economic and trading partners, since the lawsuits filed include firms from nations such as Canada, France, Spain, the Netherlands, Germany and the United Kingdom.

The activation of Title III reflects a North American foreign and commercial policy that aims to impose political and economic interests through extraterritorial sanctions, with less and less respect for its allies, especially the EU and its member states, an article published by the pan-European law firm Noerr said in early April.

While the application of that legislative section causing damages everywhere continues, calls continue at the international level for the Trump government to end not only that, but the many sanctions that are in force against Cuba.