

Country page: PARAGUAY

1. Population

Paraguay's population for 2016 is around 7,000,000, according to projections of the Census and Statistics Office (DGEEC by its Spanish acronym). Urban population is estimated to be around 60%. A small number of the total is described as indigenous, around 115,000 according to a census performed in 2012. Despite the small number, indigenous culture plays a prominent role; at least one main indigenous language – Guaraní – continues to be widely spoken and has constitutional recognition as an official language alongside Spanish.

2. Political Organization

Paraguay is a presidential republic with legislative and judiciary branches, where the legislature – composed of a 45-member Senate and an 80-member Chamber of Deputies – holds strong powers following the adoption of a new Constitution in 1992.

The country is divided into 17 departments headed by elected governors and councils with limited authority. Departments are in turn divided into municipalities with elected mayors and councils. Municipalities are autonomous within the limits of the national laws.

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4. Does the Constitution cover Environmental Rights?

Article 7 of the Paraguayan Constitution incorporates the right to live in a healthy and ecologically balanced environment. It sets forth that preservation; conservation; restoration and improvement of the environment constitute priorities of social interest, which objectives are to be conciliated with the integral development of the human being. Such aims shall guide legislation and government policies.

Article 8 addresses environmental protection by establishing that –

- Activities that may cause an environmental alteration shall be regulated, and activities that are deemed dangerous may be restricted or prohibited
- Nuclear, chemical and biological weapons are prohibited, and such prohibition may be extended to other elements deemed dangerous
- Trading of and technology related to genetic resources shall be regulated having regard for the protection of national interests
- Environmental offenses shall be defined and sanctioned by law

- Environmental damage shall entail the obligation to restore and indemnify

The Constitution assigns the Office of the Prosecutor the duty to initiate criminal cases to defend the environment, the public and social heritage and other collective interests, as well as the rights of indigenous peoples. Environmental prosecutors are the chief law enforcement officers for environmental matters. The Criminal Code adopted in 1997 covers acts that breach legal or administrative environmental regulations and cause harm or risk to the environment and human health.

5. Who is the Environmental Regulator?

The Ministry of Environment and Sustainable Development – MADES – is the national administrative agency with rulemaking and enforcement authority over a broad spectrum of environmental laws including fishing and the protection of wildlife.

6. Overview of Legislation

Environmental legislation rests on environmental assessments obligations and command-and-control legislation, while some other instruments that create economic incentives for environmental protection have also started to be implemented.

The main legal instrument is the Environmental Impact Assessment Law adopted in 1993 that inserted the obligation to obtain an environmental license for any activity that may cause significant environmental impact. The enforcement authority is the SEAM.

The Environmental Services Valuation and Retribution Law requires that projects with a high environmental impact – such as mining, oil & gas, dams, roads – assign 1% of the project value to the purchase of Environmental Services Certificates from registered conservation areas.

The Criminal Code addresses acts that cause harm to the “natural bases of human life” punishing water, air and soil pollution, waste management violations, harm to natural reserves and introduction of hazardous waste. Other criminal offenses are defined in the Environmental Crimes Law and other wildlife and environmental protection laws. Investigation and prosecution of environmental crimes are the responsibility of the Unit of Environmental Prosecutors which is a section of the Office of the Prosecutor.

Local regulations in the form of Municipal Ordinances are issued by the local municipalities and will be applicable in the municipal district where the activity is located. Municipal ordinances must conform to the national laws.

7. Environmental Impact Assessment / Environmental Assessments

Environmental licenses are issued by the MADES on the basis of environmental impact assessments or effluent discharge assessments as the case may be. For industries the international standard industrial classification is used.

Environmental licenses function as umbrella licenses that encompass any permits required for air emissions, effluent discharge, waste disposal and water use. Licenses that pertain to forestry and timber industry activities will require permits from the National Forest Institute – INFONA.

Licenses are valid for the life of the project, with the requirement that an audit report be submitted at least every five years. In practice, every two years is the norm.

8. Transportation of Dangerous Goods

Paraguay is a party to the Agreement for the Facilitation of Transport of Dangerous Goods adopted within the framework of the Latin American Integration Association – ALADI, which was adopted by decree in 1997. MERCOSUR resolutions pertaining to transport of dangerous goods are applicable in Paraguay. The enforcement authority is the National Directorate of Transport – DINATRAM – which registers transport and issues special driving licenses.

Transport of agricultural chemicals must conform to regulations issued by the National Service for Plant and Seed Quality – SENAPE – and must be registered with this agency.

9. Waste Management and Recycling

Solid waste is governed by the Residues Management Law adopted in 2009. The law applies to solid waste in general with provisions largely addressed to urban waste management. Urban waste management is the responsibility of the local municipality.

The law sets a principle of co-responsibility of the generator along with the pertinent authority for the cost of preventive or remediation actions and makes the generator liable for management and disposal; the latter can be outsourced in which case liability will be allocated to the contractor. The generator is also responsible for minimizing waste. A regulating decree of this law has yet to be issued.

Hospital waste except radioactive waste is governed by the Hospital Residues Law adopted in 2007. The enforcement agency in this case is the Health Ministry.

10. Sector-Based Regulations:

10.1 Mining

The Mining Law requires that mining activities conform to environmental regulations. The mining authority, which is the Ministry of Public Works and Communications, may report violations to the environmental authority for it to impose sanctions.

Environmental regulations establish that mining and processing of minerals require an environmental license. An environmental license is required for prospection, exploration and exploitation of metallic minerals.

10.2 Oil and Gas

The Hydrocarbons Law requires concessionaries to comply with environmental protection and licensing regulations. The law specifically requires concessionaries to adopt measures to prevent environmental damage, or damage to wildlife and agriculture, in drilling operations, oil well operation and maintenance, and in the abandonment of wells. Non-productive wells must be shut and measures taken to prevent migration of water.

Environmental regulations require environmental licensing of prospection, exploration and exploitation of fossil fuels.

10.3 Power Generation

Environmental regulations require environmental licensing of any type of dam or use of water, and well as of power plants generating at least 100 MW, power lines of at least 100000 Volts and substations.

According to the Independent Power Producer Law one of its objectives is to promote energy efficiency and protect the environment.

11. Contaminated Sites

Article 8 of the Constitution provides that environmental damage shall entail the obligation to restore and indemnify.

The Waste Management Law establishes a principle of co-responsibility of the generator along with the pertinent authority for the cost of preventive or remediation actions.

12. Climate Change

Paraguay ratified the Convention on Climate Change and the Kyoto Protocol. In 2012 the National Commission for Climate Change approved the National Policy for Climate Change. The National Commission and National Office for Climate Change were created in 2001, the latter being the executive body for policy implementation.

Mitigation and adaptation strategies were approved in recent years, the adaptation strategy seeking to coordinate actions of various government agencies including emergency management, the health system and social assistance. Mitigation strategies include actions to promote energy efficiency and renewables, reforestation, and the adoption of clean technologies.

13. Hazardous Substance Registration

The Law on Narcotics and Dangerous Drugs requires registration of any person manufacturing or dealing with substances controlled under the law. The National Drug Secretariat – SENAD – requires annual registration with the Ministry of Public Health and Social Welfare and with SENAD, and monthly and annual reports to these agencies. The list of controlled substances was last updated in 2005.

14. Liability Scheme (Civil, Administrative, Criminal)

Civil liability

Civil liability would be grounded on Article 8 of the Constitution which provides that environmental damage shall entail the obligation to restore and indemnify.

Although the Civil Code holds to the theory of strict liability, there is no specific provision imposing strict liability for environmental damage.

The Waste Management Law establishes a principle of co-responsibility of the generator along with the pertinent authority for the cost of preventive or remediation actions.

Administrative liability

The enforcement authority – MADES – may impose the following sanctions for violation of environmental regulations: warning, fines, withdraw, suspend or revoke licenses, close facilities, suspend activities, and retention or forfeiture of property.

Fines shall be applied without prejudice of the obligation to restore and indemnify environmental damage, and independently of any criminal penalties. The amount of the fines that may be imposed is capped at 20000 minimum daily wages.

A regulating decree set down the fines that may be imposed for the violation of specific environmental laws and regulations, as follows:

Law 96/92 On Wildlife

Law 294/93 On Environmental Impact Assessment

Law 352/94 On Protected Wildlife Areas

Law 3001/06 On Environmental Services Valuation and Retribution

Law 3239/07 On Water Resources of Paraguay and regulations

Law 3556/08 On Fishing and Aquaculture

Law 61/92 That Approves and Ratifies the Vienna Conventions on Ozone Layer Depletion and successive amendments

Violations of the Environmental Impact Assessment Law are deemed serious violations, except for the obstruction to inspections which is deemed least serious. Nevertheless, it is also set down that violating the requirement to hold an environmental license shall have the fine suspended for a period of six months to allow compliance with the requirement.

Violations of forest laws and regulations are subject to fines and may also be subject to the obligation to restore, which penalties are imposed by the National Forestry Institute – INFONA.

Criminal liability

Environmental offenses punished under the Criminal Code are criminal offenses that can be prosecuted ex officio. The Code penalizes with fines and imprisonment acts that cause harm to the “natural bases of human life” punishing water, air and soil pollution, waste management violations, harm to natural reserves and introduction of hazardous waste.

Sections of an earlier Environmental Crimes Law remain in force: unauthorized burning of vegetation, unauthorized water canalization or dams, timber trafficking, trafficking, capturing and destruction of endangered species, violating standards for noise, radiation or vehicle exhaust emissions, violating closes or sanitary quarantines, misrepresentation in environmental assessments and non-compliance with mitigation measures.

Policy Priorities

Current priorities of the environmental agency address issues concerning mercury contamination through developing programs following Paraguay's ratification of the Minamata Convention and enforcing ozone depletion regulations.