

# 14 ICCL MEETING

Lima, Perú  
October - 2019



# SOCIAL AND ECONOMIC ASPECTS IN MANAGEMENT OF ENVIRONMENTAL LIABILITIES

## ARGENTINA, NATIONAL AND LOCAL PERSPECTIVE

- THE NATIONAL APPROACH
- THE JURISDICTIONAL TREATMENT



# NEED FOR TREATMENT OF NON-REPAIRED ENVIRONMENTAL DAMAGES

- Environmental protection (right / duty)
- Any damages to health
- Land use planning
- Economic and urban development



# COMMUNITY, STATE, RESPONSABLE OF DAMAGE

- The community in its double role (Art. 41 C.N)  
“All inhabitants enjoy the right to a healthy, balanced environment, suitable for human development and for productive activities to meet present needs without compromising those of future generations; and they have the duty to preserve it. ”
- The responsible of the damage (Art. 28 Law 25675)  
“Whoever causes the environmental damage will be objectively responsible for its restoration to the state prior to its production. In the event that it is not technically feasible, the substitute compensation determined by the intervening ordinary justice must be deposited in the Fund of Environmental Compensation... ”



# COMMUNITY, STATE, RESPONSIBLE OF DAMAGE

The role of the State (Art. 2 Law 25675)

“The national environmental policy must meet the following objectives:

- a) Ensure the preservation, conservation, recovery and improvement of the quality of environmental resources, both natural and cultural, in the performance of different anthropic activities ...
- d) Promote the rational and sustainable use of natural resources ...
- g) Prevent the harmful or dangerous effects that anthropic activities generate on the environment to enable the ecological, economic and social sustainability of development ...
- k) Establish appropriate procedures and mechanisms for the minimization of environmental risks, for the prevention and mitigation of environmental emergencies and for the recomposition of damage caused by environmental pollution ... “





# THE LAST 15 YEARS ...

- Unequal treatment Casuistic approach.
- Lack of specific regulatory framework with environmental management guidelines at the federal level.
- Disadvantages of compliance with existing legislation (recomposition, baselines; environmental insurance, Environmental Compensation Fund)



# PROGRAM FOR THE ENVIRONMENTAL MANAGEMENT OF CONTAMINATED SITES (PROSICO) 2006

- Federal Vision
- Projects the design of methodological, economic, financial, technological and legal instruments.
- Joint work with the Provinces. Methodological manual for the environmental management of contaminated sites.
- Minimum budgets rules.
- Integration of the country into the Latin American Network of Contaminated Sites (RELASC).
- Conformation of the Argentine Chapter.
- Economical resources...



# ENVIRONMENTAL CONFLICTS

- Its treatment is addressed in administrative or judicial headquarters (administrative complaints; requests for public information; judicial shelters)
- Difficulty identifying those responsible for the damage
- Impossibility of demanding repair
- Judicialization of conflicts
- Recent creation of the First Environmental Court of the country (Jujuy)
- Lack of institutional spaces intended for pre-boarding
- Shortage or nullity of media use alternative conflict resolution





# LOCAL TREATMENT

- The provinces hold the original domain of their natural resources;
- The Nation dictates minimum Budget rules
- The provinces issue complementary regulations
- The Province of Buenos Aires and the City of Buenos Aires have specific Environmental Liability Laws
- The Province of Buenos Aires developed an Environmental Liability Management Program
- The Province of Neuquén recently approved the Management Plan for Impacted Areas



# SOME GENERAL CONCLUSIONS

- The management of environmental liabilities must necessarily consider the social, political, economic and cultural aspects.
- Its treatment involves public, private management and involvement of society.
- It is important to provide more effective tools for citizen participation



# SOME GENERAL CONCLUSIONS

- It is necessary to promote lines of action regarding “orphaned” environmental liabilities and define the role of the State in this.
- Institutional spaces must be built intended for the management of environmental conflict.
- Need to provide more effective existing legislation.



# SOME GENERAL CONCLUSIONS

- Develop the appropriate framework for the effective implementation of preventive management tools (baselines, environmental insurance, environmental compensation fund), which allow balancing operation of the polluter / payer principle.
- Make a regulatory framework that contains minimum budgets rules for the management of environmental liabilities at the federal level, in consensus with the environmental authorities (COFEMA) and facilitate complementary rules that respect particular reality of each jurisdiction.



# A FINAL REFLECTION

THE CARE OF THE  
"COMMON HOUSE"  
IS RESPONSIBLE FOR ALL

THANK YOU  
DRA. GLADYS MARCHESI

