



## The long environmental march in the Province of Santa Fe.

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Received: Jun. 2008 – Accepted: Sep. 2008

### SYNOPSIS OF STRUCTURAL CENTRAL ISSUES

Act 10.000 (T.O. 12.015) of the Province of Santa Fe, was built as a pioneer tool - 09/01/87- of the environmental legal universe. This true "popular action of protection" of collective interests – formally denominated "summary administrative contentious appeal"– displays the advantages of the environmental class action (Act 25.675),

without demanding its conditions or requirements, and at the same time bans compensating individual adventures ("...it is not admissible to obtain payment for economic provisions..." – (Art. 1°).

The obstacle of the administrative path is overlooked "...through such ways a quick redress of the damage could not be obtained." (Art. 2). In the same manner the lapsing of legal action for the filing of the action (15 days starting from the deed, omission or effects) is left without requirements, the environmental damage and its effects being renewed (Art. 3°).

**Act 10.396** grants a special active legitimation (Art. 1° and 24°) to the Ombudsman of the Province of Santa Fe in order to file –Court-appointed or at the party's request– the Act 10.000's action (enforced in numerous cases: night clubs excessive noise, river contamination, historical heritage, preservation of regional parks, etc.). Jurisprudence has been –in most of the cases– generous in the action's admissibility, broad in the granting of preventive measures, and innovative in the plural forms of sentences execution.

**Act 11.717** (which in its original text diverted the essential issues into later special laws), after the accepted and integrated veto, makes up a true integral and integrated "framework law", albeit with a special slant. This particular profile consists in placing the rules of procedure in the regulatory decree (and, we add, of substance) pertaining to: Systems of Natural Protected Areas, Research on Environmental Impact, Environmental Audits and Dangerous Waste. In short: we are standing before a unique corpus where the substantive law and regulation (via remission) share in hypostatic union precepts of substantial form and content.

**REGULATORY DECREE N° 1844/02 LEGAL NATURE:**

In spite of being denominated "decree of disciplinary action" or "corrective" of material errors, it is much more: it is an autonomous and substitutive decree, as it is expressly made clear. Therefore, the issue of situations taking place during the transition of the validity of the Decree N° 595/02 (possible but not probable) will be an issue to be dealt with potentially.

**GENERAL DISPOSITIONS:****DANGEROUS WASTE:**

1. Any waste comprised within the Appendix I and possessing any of the characteristics listed in Appendix II;
2. All waste having some of the Appendix I constituents in higher concentration to the one determined by the enforcement authority;
3. The Office of Secretary will be able to enlarge the Appendixes I and II when scientific reasons state so, previously consulting the Concejo Municipal de Medio Ambiente (Environmental Municipal Council).

**SUSTAINABLE INTERFACE:**

Systemic Law: a gradual and silent evolution of jurisprudence exists, from the primal "health", "hygiene", "healthiness" (contemplated in classic jurisprudence), to the integrative and systemic concepts of "life quality", "sustainable development", "recomposition of damaged ecosystem", "intangibility of landscape". At the same time, this conception has propelled two operational procedures:

- a) Public Audits;
- b) Assessment of Environmental Impact (E.I.A.).

Correspondingly, a new conception of legal faculties springs up (particularly the automaticity of preventive actions) when risk (for the environment, for natural resources) is serious and imminent. For the sake of an orderly description of new jurisprudence territories, we will make a thematic analysis.

**Right to Environmental Information**

It can be surely asserted that the path which led to free information on environmental data (national act 25.831), was paved by jurisprudence. In fact:

- a) The rights to information and a healthy environment (according to art. 41° and 43° C.N.), prevail over "confidentiality" established in local regulations;
- b) It turns out to be groundless and incongruous the inclusion of "confidentiality" and "secrecy" of data obtained from a poll in the face of serious damage to the environment and ecosystems;
- c) "statistical secret" must not be confused with the content of a poll from which information to which those legitimised for it must have access to can emerge;
- d) "the duty of avoiding environmental damage" (art. 41° C.N.) cannot be performed "if one lacks the knowledge of causes which can alter it";
- e) the "secret" imposed on the Administration's acts bans the adoption of urgent and appropriate measures" to neutralise the damaging effects on the environment.