

THE IMPACT OF ENVIRONMENTAL PRECAUTIONARY MEASURES DICTATED BY JUDGES OVER CONSTRUCTION WORKS AND PROJECTS

The creation of the environmental jurisdiction in El Salvador has already begun to generate an impact over the owners of construction works and projects, specifically due to the amount of complaints that communities and villages are submitting in order to ensure the conservation and protection of the environment.

The submission of such complaints gives rise to an order on behalf of the judicial authority, addressed to technical teams formed by professionals of different disciplines, to carry out inspections in the places and facilities where construction works and projects object of the complaint are carried out. Subsequently, based on a technical report issued by such teams, the judge dictates precautionary measures, that in the case of the environmental jurisdiction, they basically consist of an order issued by an environmental court, either ex officio by the judge or at the request of a party, and as an act prior to the judicial process, or in any stage of the judicial process.

The procedural requirements for the adoption of environmental precautionary measures are: a) existence of a threat or imminence of a damage to the environment that may or may not affect human health; b) existence of damage to the environment, which could generate danger or affect human health and life quality of the community; c) existence of a need to prevent damage to any individual or property of those affected, as long as these originate from any of the cases described above.

The Environmental Law grants broad powers to the Judge, even allowing it to order the total or partial cessation of the construction work, activity or project, the temporary closure of establishments and any other necessary measures to protect the environment and the quality of life of the affected individuals.

Taking into consideration the possible consequences of a complete cessation of activities on a construction work or project, the temporary closure of the establishment or the suspension of the exploitation of a natural resource relevant to the continuity of an operation, and even more so, taking into account the different kinds of responsibilities of a criminal, civil and administrative nature that may result from a damage caused to the environment, it is important that companies know the various obligations regulated on the Environmental Law and any other environmental regulations, as well as having all the necessary permits, duly updated and in good standing, in order to ensure compliance and thus avoid responsibilities for company representatives, sanctions and potential limitations to the activity of the company, thereby enhancing a culture of prevention.

For more information about this subject, please do not hesitate to contact us.



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