

2. THE CONSTITUTIONAL ISSUE

The National Constitution has not expressly stipulated federal competence in environmental matters and therefore, in this field, it is necessary to apply the legal principle of Article 104, whereby the Provinces retain the responsibilities which the Constitution does not confer upon the National Government. Thus, the Provinces have retained various institutional, taxing, processing and general promotion responsibilities, amongst them, providing for the safety, health and morality of their inhabitants. However, there are some exceptions to this principle.

The first stems from Art. 67, paragraph 16, of the Constitution itself, which confers on the National Congress the responsibility of sanctioning rules to safeguard the prosperity and general welfare which legal doctrine has called "prosperity policing". In other words, matters relating to the country's prosperity and the improvement and welfare of all the provinces; this mandate was conferred because those who drew up the Constitution realized that, in such a vast country, the isolated elements of each province would not be enough to develop its own riches.

The scope of Art. 67, Paragraph 16, of the National Constitution and the diverse aspects presented by the policing power make it possible for the Nation occasionally to collide with the Provinces. Provincial powers give way to the federal order when it is opposed to general welfare purposes stipulated in national legislation.

Paragraph 12 of Article 67 is another exception to Article 104; in it, the National Constitution authorizes the Congress to rule economic exchanges with foreign countries or amongst the provinces, in a similar way to what is known as the commercial clause in the Constitution of the U.S.A.

This exclusive faculty conferred upon the Congress determines a specifically federal scope in all matters regarding interprovincial and international trade and transport.

The national, provincial and municipal authorities have specific responsibilities but, in certain circumstances, the authorities of the provinces and municipal governments can be overridden by the national government.

3. PROVINCIAL CONSTITUTIONS

In spite of the absence in the National Constitution of specific regulations guaranteeing environmental quality of life, some of the provincial constitution texts include stipulations on the environment.

CATAMARCA

SECOND SECTION

LEGISLATIVE BRANCH

CHAPTER IV. Stipulations common to both chambers.

ART.110 - The Legislative Power must:

22: Draw up rules to protect the environment, the ecological system and the natural assets, ensure the preservation of the Environment, maintain the interrelation of its natural components, and rule on the acts which promote the recovery, conservation and creation of renewed sources.

SEVENTH SECTION

MUNICIPAL SYSTEM

ART. 252. These are attributes and duties of the Municipal Government, notwithstanding the provisions of Organic Charters and the Organic Law of Municipalities and Communes.

ART.9: Preserving the ecological system, natural resources and environment in order to guarantee the inhabitants' living conditions.

CORDOBA

FIRST PART. Declarations, Rights, Duties, Guarantees and Special Policies.

TITLE 1: Declarations, Rights, Duties and Guarantees.

SECTION I: Declarations of the Policy of Natural Resources and the Environment.