

COUNTRY PAGE: DOMINICAN REPUBLIC

1. Population

The Dominican Republic in the last census carried out in 2010 by The National Office of Statistics (initials in Spanish: "ONE"), reveal that the population totalled 9,445,281 inhabitants, most of whom are mulattoes, and is additionally noteworthy for the proportion of its young population (over 60% are between 15-65 years of age).

Likewise, a majority of the population resides in rural areas, the official language of the country is Spanish, and the predominant religion is Catholicism

2. Political organization

The Dominican Constitution established the country as a representative democracy in which power is divided among three independent branches: the executive, legislative, and judicial branches. The system of government, as defined by the Constitution, is democratic, representative, and presidential.

The territory is divided into a National District and 31 provinces as its largest political-administrative units. Likewise, these territorial demarcations are composed of 155 municipalities and 231 municipality districts.

3. RIELA contact firm and person, website

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4. Does the constitution cover environmental rights?

For the first time in its history, the Constitution of the Dominican Republic, which was enacted in 2010, recognizes the right to the sustainable use and enjoyment of natural resources; the right to live in a healthy environment, ecologically balanced and suitable for the development and preservation of the different forms of life, landscape, and nature, as well as, the duty of the State to prevent pollution, and to protect and maintain the environment for the benefit of present and future generations.

5. Who is the environmental regulator?

The machinery of protection and environmental regulation is composed of three large institutions:

The Ministry of Environment and Natural Resources, which is the entity in charge of preparing, executing, and overseeing national policies on the environment and natural resources, and promoting and encouraging activities for their preservation, protection, restoration, and sustainable use.

The Attorney General's specialized department for the Defense of the Environment and Natural Resources, which represents and defends the State's and society's interests in environmental issues in all proceedings regarding violations of environmental legislation.

Lastly, the National Council on Climate Change is the entity in charge of promoting and following up on all initiatives and policies regarding climate change.

6. Overview of Legislation

Dominican environmental legislation is comprised of the Constitution, ratified international treaties, the General Law on the Environment and Natural Resources, Special Laws on Particular Sectors, and their respective regulations.

The General Law of Environment and Natural Resources No. 64-00 ("GLENR") was enacted in 2000. Up until then a vast and diverse array of regulations that had been enacted over the previous decades had been in effect. The GLENR served to organize a legal and environmental framework in the Dominican Republic, and established the basis for environmental protection, management, liability, and the use of natural resources.

However, several legal instruments and technical regulations in areas such as water, soil, and air, among others, were also enacted in order to complete the GLENR, with the main purpose of establishing the obligations to be fulfilled by individuals and companies within national territory.

7. Environmental Impact Assessment / Environmental Assessments

The Environmental Impact Assessment is the policy and environmental management instrument formed by the set of procedures, studies, and technical systems that allow us to estimate the effects that the execution of a particular work, activity, or project could cause on the environment.

The GLENR includes a general list of projects or activities that require an environmental impact assessment. This obligation has been completed by the Environmental Authorization Proceeding, which includes a more specific list of projects or activities that need environmental impact assessments.

Specifically, it is mandatory for the following industries, activities, or works to perform Environmental Impact Studies: airports; highways; large hydraulic works; maritime and railroad terminals; residential projects; industrial parks; oil refineries; forestry projects; industrial dairy farms; hog farms; large agricultural production; activities and buildings to be located within protected areas; golf courses; and hotel and tourist facilities, among others. The Environmental Agency carries out periodic inspections and audits to ensure compliance with the Environmental Management Plan and the conditions established in the environmental authorization.

External audits are also necessary to certify compliance, and Environmental Compliance Reports must be filed for certain periods of time depending on the industry.

8. Permits (Air / Water Taking / Water Disposal / Waste)

Every project, infrastructure work, industry or any other activity that may affect the quality of the environment and natural resources, as well as the health of the population, must apply for an environmental permit or license prior to implementation.

Depending of the impact level, there are four categories of activities and projects that require approval by license or permit. The first two categories (A and B) require the performing of an environmental impact assessment. The remaining two categories (C and D), require that certain technical information be completed in order to properly evaluate whether an environmental management plan is required (C). For certain activities or projects with minimum impact, category D will apply, and the environmental agency will issue the environmental permit.

In the process of obtaining an environmental authorization, it is mandatory to present a description of the sources, management, and disposal of general services such as drinking water, sewage, electricity, and waste.

This management plan must be designed and protected while always complying with the guidelines issued by the Ministry of Environment, both at the time of submitting the request for authorization, since obviously the environmental permit will not have been issued yet, and at the time of receiving it.

In fact, an integral part of the provisions contained in the environmental authorizations requires adherence to the good management of these resources; otherwise the authorization will be canceled, and the project will be closed.

9. Transportation of Dangerous Goods

The Ministry for the Environment and Natural Resources issued a regulation for the transporting of Dangerous Substances and Hazardous Materials; its object is to establish the requirements for the transporting of hazardous materials. Likewise, this regulation applies to anyone who generates, collects, uses, stores, imports, transports, deletes, arranges for, monitors, or exports hazardous substances or materials.

The regulation establishes a special registration with the Ministry for the Environment for the types of companies that must transport Hazardous Materials.

Additionally, this contemplates important obligations, such as: classification and labeling of materials, regular inspection of vehicles, vehicle requirements, shippers' and carriers' responsibilities during pre-transportation procedures, the responsibility on the part of the receiving facility, the segregation of hazardous materials, transport operations using cisterns, requirements for packaging and labeling, routes and transportation schedules, and action plans in case of emergencies.

10. Waste Management and Recycling

Regulation currently governing this matter in the Dominican Republic is scarce. Even though there are some pertinent legal instruments that, they do not fully address the existing waste crisis in the country. These current instruments are as follows:

The GLENR sets forth certain obligations regarding the management of waste. In this sense, hazardous waste must be handled as specified by the regulations. Pathogenic waste also has special regulations issued by the Ministry of Environment and Natural Resources which include duties such as labelling, the elimination of hazardous materials, segregation, transportation, and final disposal, among others.

In addition, there is the Regulation for Environmental Management of Non-Hazardous Solid Waste issued by the Ministry for the Environment and Natural Resources. Also, there is a regulation on waste with the purpose of promoting recycling of certain types of waste. New obligations apply to single homes, buildings, towers, commercial businesses, industry and public institutions. According to them, waste must be segregated and disposed of in two different bags: inorganic waste (paper, cartons, plastics, glass and metals) in one; and organics (food, wood, etc.) in another. Local authorities must provide selective services for handling these bags, and transport them to special areas where the materials will be recovered for recycling. However, the major problem is the final disposal, as it is not correctly handled. In addition, all the waste ends up in the same place in a common dump.

This situation is aggravated by the fact that the Dominican Republic currently has no law to regulate waste, although a Bill on Solid Waste Management has been under discussion for several years in the National Congress. Nevertheless, this bill has not passed. It aims to prevent the generation of waste and encourage its reduction, management, and recycling, by establishing a legal regime for its application in the activities, processes, and operations involved starting with its generation up to its reuse and ultimate disposal.

On the other hand, a new effort to remedy the waste crisis was launched earlier this year by the Dominican government. This program, called The "**CLEAN DOMINICAN REPUBLIC**" (in Spanish "DOMINICANA LIMPIA") was launched through a speech by the President of the Dominican Republic, as the launching of a policy for the integral management of solid waste in the Municipalities of the Dominican Republic, which includes both the collection, management and disposal of same, as well as other aspects that would contribute to the ecological improvement of the country.

It proposes comprehensive waste management based on recycling, taking into account that up to 51 percent of the garbage produced in the country can be recycled. It encourages practices designed to obtain the greatest benefit from using solid waste as fertilizer or fuel, thereby generating resources for the country.

In this way, it is essential to encourage the creation of a national waste industry. In effect, the "CLEAN DOMINICAN REPUBLIC" program will promote an alliance between the public and private sectors, to promote the adoption of the best practices of solid waste management. Also, civic education was established as an essential component of the project, based on a cultural change with the help of civil society organizations and neighborhood councils. This awareness is summarized in teaching the rule of the 3 Rs: reduce, recycle and reuse.

11. Sector-Based Regulations:

11.1 Mining

The Dominican Republic is a country rich in mineral resources, with firms currently engaged in metallic and non-metallic mining. Therefore, due to the nature of mining, regulations are needed in order to ensure the sustainable development of its mineral resources. The efforts to create an effective law began in 1971 with the approval of the mining law, with its respective rules of procedures. Nevertheless, this law did not cover all aspects of mining.

For that reason, the Constitution of the Republic issued in 2010 created the Ministry of Energy and Mines, as an organ of the Public Administration dependent on the Executive Power, to govern the formulation and administration of energy policy and of metallic and non-metallic domestic mining operations. Nevertheless, this Ministry was not put into operation until 2013 when an organic law was issued governing this matter and other new matters affecting mining and the production of energy.

In this regard, the Ministry of Energy and Mines grants mining concession licenses for exploration and exploitation, with the assistance and opinion of the Ministry of Environment and Natural Resources. It is important to note that this latter Ministry issued two regulations for the operation of both metallic and non-metallic mining companies.

11.2 Oil and Gas

The most relevant regulations that govern the hydrocarbons subsector are the Hydrocarbons Tax Law, the Regulation for the Application of the Tax Law on Hydrocarbons, the GLENR, and other regulations that regulate importation, transportation, storage, and other aspects.

As for the regulatory agencies for this sector, the General Electricity Law and Regulation No. 307-01 provides that the CNE and the Hydrocarbons Directorate of the Ministry of Industry and Commerce (MIC) are to regulate the application of policies, rules, regulations, and provisions in relation to fuels. In addition, aspects such as safety and mechanisms to prevent contamination and accidents are regulated by the Ministry for the Environment.

The fuel sector is very important since it is currently the largest source of energy in the country, which means that millions of Dominican homes consume liquefied gas on a daily basis. Within this scenario the most important element is a tax exemption regarding Natural Gas (liquefied, compressed or other transportable form), which establishes funds and special programs for the economic compensation of low-income households through a subsidy to liquefied petroleum gas (LPG); and the promotion of alternative energy programs, renewable or clean energy, and energy savings.

Also included within the framework are the obligations of companies to act within the market and trade in this sector, in compliance with the fuel quality standards established by the corresponding international and national governing bodies.

11.3 Power Generation

The electricity generation matrix in the Dominican Republic has evolved since the 1990s, when the state-owned electricity system was partially privatized. However, it is still predominantly based on hydrocarbons, and for many years has made the sector highly vulnerable to external shocks related to the volatility of world oil prices, one of the main problems affecting the industry and its financial condition.

In this regard, the Dominican Republic's the Ministry for the Environment and Natural Resources is currently working in conjunction with the superintendent of electricity and the Ministry of Energy and Mines to guarantee that electricity generating units not include the use of toxic waste of external or local origin that degrade the environment and the national ecosystem.

For that reason, the Ministry for the Environment and Natural Resources must first issue a certificate of no objection for this activity as mandated by the General Law on Electricity.

Furthermore, electricity concessions may be granted to legally incorporated national and/or foreign entities. This concession could be provisional or definitive, and the agency that would be in charge of this is the office of the superintendent via the National Energy Commission.

As to the final concessions, these are granted approval by the Executive. In any case concessions will be granted to install electricity generating units that include the use of toxic waste of foreign or local origin that degrades the environment and the national ecosystem. The Ministry for the Environment and Natural Resources must first issue a certificate of no objection.

12. Contaminated Sites

The GLENR establishes environmental liability by including the principle of strict liability. Anyone who causes harm to the environment and natural resources will be liable for this action, and will have to restore the resources to their previous condition. If that is not possible, additional compensation will apply. Contamination of soil or groundwater must be remedied by the polluter, who must control its impact and immediately notify the environmental authorities. If it is not possible to determine the identity of the person who polluted the site, and additional activities are to be carried out on said site, remediation actions will be included in the environmental management plan for the new activities or operations. The Environmental Agency may also use public funds to restore land contaminated by unknown persons.

13. Climate Change

As an island, climate change takes top billing on the environmental agenda. The biggest challenge that the Dominican Republic will face in the near future is its adaptation to the consequences of the most significant environmental impact caused by human activity: global warming. There are many questions, for example: how will climate change affect tourism infrastructure located in coastal areas? And the agricultural sector? Governmental agencies are already working in different fields to mitigate climate change. The expected consequences of climate change on the country are: water shortages; increased intensity of extreme weather (hurricanes and rain); flooding in coastal areas; and the displacement of population, among others.

Tourism being one of the main economic activities in the country, the country has enacted land use restrictions regarding construction along the shorelines. This is an example of different decisions being made based on climate change.

Sectorial initiatives (cement, waste and tourism, among others) to mitigate emissions are currently under development, promoted by the CCO together with the private sector.

14. Chemical and Hazardous Substance Registration

The Management of Hazardous Substances and Chemical Waste Regulation, which refers to the National List of Hazardous Substances and Chemical Waste. Any activity that involves the management of these types of substances requires a permit and special registration from the Ministry for the Environment. Also, the provisions set forth in the above-mentioned regulations must be complied with in relation to the handling, collection, packaging, labelling, segregation, classification, storage, and final disposal, etc., of hazardous substances or waste.

In this sense, any person handling hazardous waste should be instructed about the physical, chemical and biological properties of these substances and the risks they involve.

Anyone who imports, manufactures, stores, or distributes hazardous substances or products, must have basic knowledge of the physical, chemical, and biological properties of these substances or products, and must also make sure that they display the label corresponding to their classification in an empty surface area and in legible letters, in Spanish, with the specifications for handling them.

The Work Safety and Health Regulation issued by the Ministry of Labour also sets forth certain provisions and expressly regulates asbestos with regards to workers' health, establishing the average permissible concentration of amianthus fibres in each workplace. It also prohibits the use of the variety known as crocidolite or blue asbestos.

15. Liability Scheme (Civil, Administrative, Criminal)

When an individual or a company does not comply with environmental laws or authorizations, this situation can result in civil, administrative and/or criminal liability, depending on the fault committed.

The GLENR sets forth environmental liability by including the strict liability principle whereby the classic exclusions in liability clauses are not applied to environmental civil liability. Legal responsibility arises from the production of the damage itself. This doctrine establishes that anyone who causes damage to the environment and natural resources will be liable for it and will have to restore it to its previous condition. [Article 169 of the Environmental and Natural Resources General Law 64-00.] If that is not possible, additional compensation will apply.

Administrative liability has become the most frequent type of liability when a breach of environmental laws and/or permits takes place. The main administrative penalties foreseen in environmental legislation are the following: (1) a fine of up to three thousand (3,000) times the minimum wage; (2) seizure and/or confiscation; and (3) prohibition or temporary suspension of activities, or partial or total closing of the establishment.

As to civil liability, damages caused to third parties as a result of pollution are contemplated within the Civil Code. Several penalties can arise: (1) an order to materially restore the damage caused; (2) an indemnity order in favour of the State (for the community where the damage was done) and/or any individuals affected; and (3) an order to re-establish the environment to the condition prior to the deed, whenever possible.

As to criminal liability, competent criminal jurisdiction may impose the following penalties on infringing individuals or companies : (1) imprisonment if any death has occurred due to the infringement; (2) fines; (3) forfeiture; (4) the obligation to compensate those who suffered damages; (5) temporary or definitive withdrawal of the authorization, license or permit; and (6) the obligation to repair, replace, compensate, restore, or rehabilitate to its original state the natural resource affected.

Regardless of the type of liability in question, the individual or company sanctioned will always have the corresponding remedies or procedural defense, both in administrative as well as judicial court.

16. Reporting Obligations

All citizens are responsible for notifying the environmental regulator of any event that could negatively impact the environment. If said damage could cause risks to the health of the community, it must be immediately notified to the Ministry of Health.

In case the pollution was caused under operations authorized by the environmental permit, the operator has the obligation to file an Environmental Compliance Report periodically. Said event will be included in the report, as well as a description of the actions taken to restore the environment to its previous condition.

17. Environmental Incentives (for conservation or clean energy)

In general, in the Dominican Republic the GLENR provides for some environmental incentives and those agencies responsible for overseeing them. In this regard, the Ministry for the Environment and Natural Resources oversees the qualifying and certifying of investments prepared by the Ministry of Finance and approved by the Executive Branch.

The country has currently taken some measures to reduce its dependence on oil by promoting the production of renewable energy. In 2007, the Renewable Energy Law went into effect; its ordinances were signed in 2008. The law grants several incentives for renewable energy projects, including: a 100% exemption on import taxes for renewable energy machinery, as well as other related goods and services; an exemption from the Tax on the Transfer of Industrialized Goods and Services (ITBIS) for all transactions; a credit of 75% of the income tax for own-account producers (residential and industrial); a 10-year tax exemption on biofuel production; and a feed-in tariff until 2018. The law has the ambitious goal of reaching 25% of renewable energy production in the Dominican Republic before 2025, and at least 10% by 2015.

However, the production goal for renewable energy at these levels under this schedule is unlikely to be met. The growth of the renewable energy sector is hampered by obstacles such as confusing rules and bureaucratic processes, especially those related to obtaining government concessions and benefiting from

tax incentives of the law. In addition, a fiscal reform implemented in 2012 eliminated the largest tax exemptions, including the exemption in the ITBIS and the tax exemptions to produce biofuels; it also reduced other incentives, such as the reduction of the tax credit for self-producers (up to 40%). Long-term financing for new projects is also difficult to obtain, often due to the low purchase rates offered by the Dominican Corporation of State-Owned Electricity Companies (CDEEE) and other price distortions; high transaction costs; large government subsidies for the consumption of fossil fuels and other market distortions; and the scarcity of appropriate coverage products. In addition, local capital markets are still immature and are not diversified. More importantly, the government's significant arrears with the generation sector, including wind farms, represents a drain on the sector's finances and discourages adequate financing and new investments in renewable energy technology.

18. Financial Assurance

Although the General Law on the Environment has instructed the Ministry for the Environment and Natural Resources, together with the Ministry of Economy, to issue the necessary provisions to establish mandatory civil liability insurance to cover damages to the environment and natural resources caused by accident, environmental risk insurance is yet to be developed in the Dominican Republic. In addition, the General Law on Insurance No. 146-02 does not specifically provide for environmental risk insurance.

Nevertheless, the General Law on the Environment sets forth the obligation to obtain a compliance bond for all companies or persons responsible for activities which require an environmental permit or license. The purpose of this bond is to ensure compliance with the provisions of the environmental authorization and execution of the environmental management plan approved by the environmental authorities for the operation. The amount of the bond is 10% of total cost of the physical works or investments required to comply with the environmental management plan.

Regardless of existing legislation, insurance companies have not yet created, under the heading of "environmental risk insurance", all the contingencies related to the impact on the environment. It is possible to obtain a variety of insurance policies that provide companies with a partial solution to the requirement, including: (i) Social Liability Insurance; and (ii) Social Liability Insurance for Industrial Risks. The terms and conditions of the latter must be agreed upon with the insurer for each specific case.