

## **Country page: URUGUAY**

### **1. Population**

According to the 2013 census carried out by the National Institute of Statistics ("INE", for its Spanish acronym), Uruguay has a current population of 3.440.157 inhabitants and almost 40% of them currently live in Montevideo.

Most Uruguayans are principally descended of Spaniards and Italians. Spanish is the official language in Uruguay.

### **2. Political organization**

Uruguay has a democratic, republican and representative form of government. The National Constitution, adopted in 1830, provides for a government system consisting of an Executive Branch, headed by the President, a Legislative Branch and a Judiciary Branch. The legislative power is divided into two chambers: the chamber of deputies and the chamber of senate.

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### **4. Does the constitution cover environmental rights?**

Article 47 of the Constitution proclaims general interest of environmental protection and that people should refrain from any act that causes serious depredation, destruction or contamination of the environment.

It also provides that water is an essential natural resource for life and its access constitutes a fundamental human right.

### **5. Who is the environmental regulator?**

The National Directorate of the Environment ("DINAMA") is an organization that belongs to the Ministry of Housing, Territorial Planning and the Environment ("MVOTMA"). DINAMA is the department competent to achieve adequate protection of the environment, promoting sustainable development through the generation and application of instruments aimed at improving the quality of life of the population and the conservation and

environmentally responsible use of ecosystems, coordinating the environmental management of the public entities and articulating with the different social actors

## 6. Overview of Legislation

Environmental policy in Uruguay is based on Section 47 of the Uruguayan Constitution which provides that the protection of the environment is of general interest. It also declares that individuals shall refrain from carrying out any activity that causes depredation, destruction or serious pollution to the environment. Moreover, the government will undertake to enact laws in order to regulate the constitutional provision.

Consequently, on December 12<sup>th</sup>, 2000, the Legislative Branch passed the General Act for The Protection of the Environment No. 17.283 (“GAPE”), which sets forth the main outlines and principles of Uruguayan Environmental Law and general policies for the protection of the environment. Its main objective was to regulate art 47 of the Uruguayan Constitution, determining what areas should be considered as environmental, and therefore protected.

Further Environmental Regulations have been passed in Uruguay. For instance, Act N° 18.308, which sets forth the general regulation for land management and sustainable development. It provides rules regarding territorial organization, with the purpose of improving the populations quality of life, social integration in the territory and environmentally sustainable and democratic use of natural and cultural resources.

The Legislative Branch also published the National Water Policy Act N° 18.610. This law establishes the guiding principles of National Policies of Water, complying with the provisions of article 47 of the Uruguayan Constitution.

Moreover, other environmental Laws have been passed, such as Law N° 16.112 published in 1990 which created the Ministry of Housing, Territorial Planning and Environment (hereinafter, “**MVOTMA**”) which is the main agency that administers and enforces environmental law. Particularly, the main agency is the National Environmental Agency (Dirección Nacional de Medio Ambiente) (hereinafter, “**DINAMA**”). Pursuant to Section 8 of Law Number 17,283, municipal authorities are also able to administer and enforce environmental law in certain delegated aspects.

Another relevant regulation refers to the Prevention and Assessment of Environmental Impact Act N° 16.466 and its Regulatory Decree Number 349/005, which determine that certain activities require an environmental permit, and are therefore subject to a prior Environmental Impact Assessment. By way of example:

- Roads, bridges, railways and airports,
- Ports, oil transfer terminals or chemical products,
- Oil pipelines, gas pipelines and waste liquid outfalls,
- Treatment plants, transport equipment and final disposal of toxic or dangerous waste,
- Extraction of minerals and fossil fuels,
- Electric power generation plants of more than 10 MW,

- Nuclear energy production and transformation plants,
- Power transmission lines of 150 KW or more,
- Works for exploitation or regulation of water resources,
- Industrial, agroindustrial and tourist industries, or units which, by their nature and magnitude, can cause a serious environmental impact,
- Urban projects of more than one hundred hectares or in smaller areas considered of relevant environmental interest at the discretion of the Governments Executive Branch,
- Activities which will be carried out in the coastal defense area, as defined by article 153 of the National Water Policy Act,
- Any other activities, constructions or works which are in any manner similar to those activities indicated above, that may cause a negative or harmful environmental impact.

## 7. Environmental Impact Assessment / Environmental Assessments

Pursuant to Law Number 16,466 and its Regulatory Decree Number 349/005, several environmental permits are required prior to starting certain activities, constructions and works expressly listed in such regulations.

Those interested in carrying out any of the activities, constructions and works are subject to the request of a Prior Environmental Authorization (hereinafter, “AAP” – “Autorización Ambiental Previa”) and shall communicate the project to the MVOTMA by submitting certain information depending on the category of the activity.

Decree Number 349/005 also establishes that parties interested in performing certain activities, constructions or works included in its Section 20, shall communicate the location and a description of the area of execution and influence to the DINAMA, and, as the case may be, include an assessment of the location or section of the site where the project is to be performed, including an analysis of any alternatives.

Some projects that require an AAP must also obtain an Operating Environmental Authorization (hereinafter, “AAO”) in order to start operating. The AAO shall be requested by the interested party and, once there has been full verification of the conditions established in the AAP, the project is filed before the MVOTMA and if the Environmental Impact Assessment criteria are met, the MVOTMA grants the AAO.

Those activities that were built, authorized or put into operation without being required to obtain the AAP (because the activity was prior to the entry into force of the Decree or, when the activity started, it did not meet the requirements established in the Decree for obtaining the AAP), would require a Special Environmental Authorization (hereinafter, “AAE”), included in Section 25 of the Decree, if they expand the facilities or increase the productive capacity.

Environmental permits can be transferred from one person to another, provided that the transferee assumes the same obligations that the transferor had assumed before.

## 8. Permitting (Air / Water Taking / Water Disposal / Waste)

Regarding the regulation of Waste, under Uruguayan law, there is no general definition of waste. However, Decree Number 182/013, Resolution Number 1708/2013 and Resolution Number 266/014, which regulates industrial wastes, defines “waste” as “any substance,

material or which is disposed or removed, it is intended to dispose or remove, or it is required to dispose or remove". There are certain categories of waste which involve additional duties or controls such as: (i) industrial solid wastes (Decree Number 152/013); (ii) hospital wastes (Decree Number 586/09); (iii) batteries (Decree Number 373/003); and (iv) agricultural, horticultural and forestry wastes (Decree Number 152/013).

In general terms, an approved Management Plan which regulates all aspects related to waste is necessary prior to storing and/or disposing of such waste.

With regard to Waste Management Plans of solid industrial waste the same must include generation, internal management, storage, transport, recycling, recovery, treatment and final disposal of the all the solid waste generated by the activity of the company.

The location, kind of waste and other conditions related to the disposal of such waste shall be approved by the environmental regulator.

Moreover, regarding the contamination of soil or groundwater, these aspects are regulated mainly by Decree Number 253/79. In that sense, such Decree establishes the possibility of imposing fines in case of contamination. It also establishes certain limitations for spilling waste on soil and groundwater.

In addition, a 2017 Bill adds to the Uruguayan Penal Code a chapter referring to environmental crimes. Said Bill, establishes a penalty of prison for up to eight years in case of contamination of groundwater, as well as damage to the environment caused by toxic substances.

Also, industries are subject to the Environmental Impact Assessment, and the consequences of operating without this permit.

## **9. Transportation of Dangerous Goods**

Several resolutions have been promulgated in order to regulate the transport of dangerous goods. Some of these resolutions are: (i) Law 15.064, which approves the Customs Convention on the International Transport of Goods; (ii) Law 16.221, which approves the Basel Convention on the control of Movements Transboundary Hazardous Waste and its Disposal; (iii) Law 17,680, which approves the Convention on the Physical Protection of Nuclear Materials; (iv) Law 17,910, which approves the Joint Convention on the Safety of Spent Fuel Management and on Safety in Radioactive Waste Management; (v) Law 18.697, which creates the National Institute for the promotion of activities related to the sector logistics, called the National Logistics Institute (INALOG).

The following decrees are also approved: (i) Decree 310/977, which approves the approval of the regulation of port services that are provided to merchandise or dangerous substances; (ii) Decree 583/978 on the storage of Merchandise and Hazardous Substances that are not dispatched directly; (iii) Decree 205/981 that regulates the transportation, distribution and commercialization of fuels liquids; (iv) Decree 158/985, which approves Regulations on operations and transport of dangerous goods, among other standards; (v) Decree 560/003,

which approves the National Regulation on the Transport of Dangerous Goods by Road, for routes of National jurisdiction.

## 10. Waste Management and Recycling

Law 17.283 ("Environmental Protection Law") declares the protection of the environment against any affectation that could derive from the management and disposal of waste. Decree No. 182/013 ("Regulation of Article 21 of Law 17,283 (General Law for the Protection of the Environment)") aims to establish the framework for the environmentally sound management of industrial and other generated solid waste in assimilated activities, taking into account all the aspects that make up its integral management, including from its generation, collection, classification, storage, transport, recycling, recovery, treatment and final disposal Law 17.220 of 1999 entitled "Environment. Hazardous waste" prohibits the introduction of all types of hazardous waste, and Article 9 establishes that it will be punished with twelve months of imprisonment to twelve years of penitentiary who will introduce in any form or under any regime the areas subject to the national jurisdiction hazardous waste.

Decree No. 373/003 ("Regulation of the handling and disposal of lead and acid batteries used or to be discarded") recognizes the need to establish a regulation for the proper management of lead and acid batteries used or to be discarded by the risk they can cause for human health and the environment. Law No. 17,849 entitled "Recycling of Containers Law" states that it is in the general interest to protect the environment against any damage that may arise from packaging, whatever its type.

The Ministry of Housing, Territorial Planning and the Environment is in charge of dictating the measures and applying the measures that are necessary to regulate the types of containers and prevent the generation of waste. Some of these measures are the reuse, recycling and other forms of recovery of waste.

## 11. Sector-Based Regulations:

### 11.1 Mining

Law 15,242 approves the Mining Code that regulates the institution of mining titles and rights and organizes the regimes that enable mining activity. Decree 110/982 regulates the Mining Code. Other relevant norms are the Decree 535/969 that includes norms for the execution of works, exploitations or extractions of minerals in the channels, coasts, shores and shores corresponding to the Atlantic Ocean, Río de la Plata and rivers, streams and lakes of the national territory . The purpose of the mining activity is the rational exploitation of mineral resources of the country, with economic purpose and is qualified as public utility.

### 11.2 Oil and Gas

Decree Law No. 15.242 approves the Mining Code. The Code regulates the institution of mining rights and titles and organizes the regimes that enable the mining activity, with the

purpose of a rational exploitation of the mineral resources of the country, with economic purpose. Other laws have also been approved, such as: (i) Law 15,232 that provides for sanctions applicable to the adulteration of liquid fuels destined for sale; (ii) Law 17,567, it is a law of declaration of general interest of alternative fuels, renewable and substitutes of petroleum derivatives elaborated with national raw material of animal or vegetal origin; (iii) Law 18,195 regulates agro-fuels. Some of the Decrees that have been approved are: (i) Decree 126/973, which regulates the marketing and refilling of gas cylinders for liquefied petroleum gas or supergas; (ii) Decree 435/996, which declares the gas industry and its supply of national interest; (iii) Decree 428/997, regulates the distribution of gas through pipelines in Montevideo.

### 11.3 Power Generation

Several regulations have been promulgated to facilitate the protection of the environment from activities related to the generation of electricity. Decree Law No. 14,694 approves the National Electricity Law. (Regulated by Decree No. 276/002). The Law is responsible for regulating the activities of the electrical industry that comprise generation, transformation, transmission, distribution, export, import and commercialization of the electric energy. Article 4 establishes that the Executive Branch is responsible for everything related to the formulation and controller of the electric power policy and especially, regarding the authorizations necessary for the exploitation and conservation of primary sources to be used in the production of electric power. Other relevant provisions are: (i) Law 18,585, which declares research, development and training in the use of the Thermal solar energy; (ii) Law 18,597, which declares the Efficient Use of Energy to be of national interest with the purpose of ensuring the competitiveness of the national economy, contribute to the sustainable development of the country and reduce Emissions of greenhouse gases; (iii) Law No. 19,317 that establishes the regulatory framework for the promotion of Biotechnology; (iv) Decree 212/980 approving the "Nuclear Policy of the Oriental Republic of Uruguay"; (v) Decree 276/002 approving the General Regulation of the Regulatory Framework of the Electric System National; (vi) Decree 278/002 that regulates the Transmission of Electric Power.

### 12. Contaminated Sites

Liability for the contamination of soil or groundwater is regulated mainly by Decree Number 253/79, which establishes certain limitations for the spilling of waste on soil or groundwater equally signifying the possibility of imposing fines in the case of contamination.

Law Number 16.466 establishes that there is liability when one or more persons are responsible for contamination, and that under Uruguayan tort rule, the polluter is liable for all damages caused without exception. Including, the government has the authority to claim monetary damages for aesthetic harms to public assets, provided by Law Number 17.283.

As part of the Law of Protection of the Environment, The Ministry of Housing, Land Management and the Environment that will dictate administrative acts and perform material operation to prevent, diminish, monitor and correct the destruction and contamination of the

environment. Also arrange, the preventive suspension of the activity allegedly dangerous, with studies aimed at preventing pollution or environmental impact.

### 13. Climate Change

Uruguay assumes its international commitment on climate change and positions itself among the first developing countries to comply with the Convention and the Protocol of Kyoto, which has been in force since 2005, that enables Annex I Parties to develop projects that generate emission reductions of Greenhouse Gases in developing countries and puts in practice mechanisms such as the Clean Development Mechanism (“CDM”).

The country also ratified the CMNUCC (United Nations Convention about Climate Change) which sought to reduce Greenhouse Gases, implement measures of mitigation and adaptation, promote and develop technologies and processes to reduce emissions and finally encourage public sensitivity.

According to what is established in section 47 of the Constitution, law 17.283, namely, the General Law on Environmental Protection, was implemented in 2000. The SNRCC was also created, which is a national system in response to climate change. Under the supervision of the SNRCC is the CDM known in Uruguay as the *Mecanismo para un Desarrollo Limpio (MDL)*, which is an integral part of national plan. The two principal aims of this mechanism are to: a) obtain a real reduction of greenhouse gas (GHG) emissions with respect to the situation in the absence of a project and b) contribute to the sustainable development of the host country of the project.

The National Adaptation Planning (NAP) process was established by the United Nations Framework on Climate Change Convention (Cancun 2010) as a tool to promote the integration of adaptation in policies strategies and national budgets. As an integral part of their aims they intent to reduce vulnerability to the impacts of climate change, strengthen adaptive capacity and build resilience.

Other relevant norms are: (i) Law No. 15.986, which approves the Vienna Convention for the Protection of the Ozone Layer and its Annexes; (ii) Law No. 16.517, approves the agreement on Climate Change (Framework Convention of the United Nations on Climate Change); (iii) Decree No. 345/004, whereby MVOTMA is notified of the implementation of the National Program for the Gradual Reduction of the Consumption of Ozone Depleting Substances; (iv) Decree No. 238/009, which creates the National System of Response to Climate Change and variability, to the effects of coordinating and planning the public and private actions necessary for the prevention of risks, mitigation and adaptation to climate change.

### 14. Chemical and Hazardous Substance Registration

According to Decree 182/013, the general waste generators must keep a monthly record of the amounts generated, correlated with production data or activity volume as appropriate. They must maintain records of any accidents and indicate the affected unit, the transported

waste, and a description of the facts, causes of the accident and measures taken. Finally there must be a registry of the entry and exit records of vehicles and loads and parts of the processes of the treatment and disposal facilities final.

According to Decree 177/013 there is a register in which those who produce, manufacture, prepare, import, export, distribute, use, hold, deposit, store, offer for sale or negotiate in any way chemical precursors and other chemical products must inscribe at the Registration of Precursors and Chemical Products.

## 15. Liability Scheme (Civil, Administrative, Criminal)

There are several kinds of liability which may arise where there is a breach of environmental laws and/or permits.

### (i) Environmental Liability:

Law 17.283 on Section 17 prohibits to emit, directly or indirectly, substances or energy, above the permitted levels, violating the conditions determined by the Ministry of Housing, Territorial Planning and the Environment. In order to do so, the Ministry will take into consideration the levels or situations that may jeopardize human, animal or vegetable health, harm the environment or create risks, damages or serious bother to living beings.

Regarding maritime regulations, several normative can be mentioned:

Law 13.833, known as the Fishing Law, specially prohibits any ships (in spite of being a law for fishing) to pour into the waters any substance that could make the use of them harmful or destroy the marine flora and fauna; especially prohibiting the dumping of hydrocarbons, industrial waste and other toxic products; Likewise, it determines the need to adopt all prevention and contingency measures necessary.

Section 47 of the Uruguayan Constitution: Since 1996, when the Constitution was reformed, an express text has been incorporated for the first time, stating the following: "The protection of the environment is of general interest, and people must refrain from any act that causes serious depredation, destruction or contamination of the environment." In its Article 47. So now this obligation has constitutional status, and provides the absolute nullity of any clause or agreement between individuals (eg carriers and shippers) of contractual clauses that entail or suppose the derogation and /or limitation and /or conditions that directly or indirectly harm this protection (Article 11 Uruguayan Civil Code).

Law 17.283, Law of Protection of the Environment.

It ratifies the prevention, elimination, mitigation and compensation of negative environmental impacts as elements pursued by environmental protection. There is a preventive nature but the specific sanctions are insisted on (to eliminatethe impact or the recomposition) and other measures (mitigation or reduction of the impact and the condemnation by equivalent in the compensation of the damages caused). It establishes the imposition of daily fines or the execution of tasks by the State (Article 16).

There is no objective liability in Uruguay for environmental damage. It is a non-contractual liability, of a subjective nature. But in the legislation of the maritime transport, both in domestic laws and conventions ratified by our country, has already established the responsibility of an objective type against pollution from oil spills. In effect, law 16.688 (more recently modified by law 19,012) declares the strict liability of the shipowner for the pollution that has generated by using the ship.

Section 3 of the Law determines the concept of environmental damage: “

Environmental damage is understood as any loss, reduction or significant detriment inflicted on the environment”

The environmental damage comprises and is subdivided into:

(a) the civil or indirect environmental damage that is that which a person suffers on himself or her property and that is generated by an element of the environment, is called indirect since it presupposes the existence of other damage (direct) to the environment.

(b) collective or direct environmental damage. It is the one that occurs and directly affects some component of the environment, regardless of whether it results in damage to property or people. This damage is a damage to a public good such as the environment.

Law 16.688, Law on Prevention and Surveillance for pollution by ships

The law states that: the owners or shipowners, aircraft operators, naval devices, installations established on land or underwater platforms that caused pollution, shall be jointly and severally liable, whether the established infractions have been configured or not. It is an objective liability, being an exception to Uruguay’s general rule of having subjective responsibilities. And also, it is a solidary and integral responsibility, being all the legally obliged, jointly liable and for all the damages caused.

The law was complemented in 2012 with the obligation to contract insurance and also to do so with a company specialized in spill control and mitigation.

#### **(ii) Civil Liability:**

Section 1319 of the Uruguayan Civil Code determines that everyone that causes a damage by an illegitimate act, has the obligation to repair it. The act can be made positive or negative, and also with malice or negligence and depending on it, it will be a crime or a misdemeanor. However Section 1321 states that if someone exercise a right, it cannot cause any damage, unless it is used in excess, and Section 1322 adds that nobody can be responsible for fortuitous events.

Moreover, Section 1324 contains the obligation to repair the damage caused by the person who causes it, as well as the one caused by the people under its vigilance, or the objects of its property. As an example, the Section mentions the responsibility of the owners or directors of a business, for the actions of their employees, unless they can prove that they have employed the necessary due diligence to avoid the damage. Also, other laws are applicable:

Law 18.099 established the solidary responsibility of all owner or businessman that has subcontractors, intermediaries or providers of labour regarding the working obligations and contributions to social security.

Law 16.820 ratifies the International Convention on Civil Liability for Damage Caused by the Pollution of the Sea by Oil from Brussels of 1969 (with the modifications made in the Protocols of 1976 y 1992). This convention determines that the vessel must be a tanker and it must be suitable for navigation maritime, which includes in the convention even when the spill is verified in lacustrine or fluvial waters. On the contrary, when the spill comes from ships intended for river navigation such as barges the 1992 CLC system does not apply. The responsibility of the offender it is objective, only by proving the effective damage generated, it is enough. Also, regarding the amount to be compensated, it is fixed according to the tonnage of the vessel and in special right of rotation (DEG), therefore the responsibility is limited. This is determined in the 1992 protocol.

Law 17.051 Vienna Convention on Civil Liability for Nuclear Damage and Optional Protocol on Compulsory Jurisdiction for Settlement of Disputes

#### **(iii) Administrative Liability:**

The exercise of the Government's environmental policing is expressed through legislative acts, executive orders and resolutions that establish requirements subject to which the authorities will issue concessions, consents, permits, certificates, etc. These laws and regulations, in turn, establish certain obligations, and non-compliance may result in several penalties imposed by administrative bodies with jurisdictional powers. The enforcement authority may impose on violators a number of penalties, such as warnings, fines, closure of facilities, etc.

#### **(iv) Criminal Liability:**

In the Uruguay Criminal Code, there are several provisions regarding environmental damages:

Section 218 regulates a crime that consists of poisoning water, or edible products. It states that the person that modifies or poisons the water or other substances that have public alimentation as a purpose, regardless of whether there was an actual harm, will be punished will 12 to 16 years of reclusion.

Section 220 regulates a crime connected to the offering or selling of hazardous substances for health, falsified, or modified. The time of reclusion is from 6 months to 10 years. Section 221 applies the same sanction to the person that sells or offers hazardous products, without being legally authorized.

Section 224 sanctions the person who violates sanitary regulations, regulated to the intention to avoid a propagation of epidemic or contagious diseases, or causes any damage to human or animal health, with 3 to 24 months of reclusion.

Section 224 BIS determines that any person, to get a personal gain, illegally connected to the public sanitary system, will be punished with 3 to 24 months of reclusion.

Section 225 states that if someone poisons or modifies the water that is designated to consumption, will be punished with 6 months to 6 years of reclusion.

## **16. Reporting Obligations**

A specific obligation to report pollution or environmental contingencies is not established in the legislation, but it does oblige polluters to carry out remediation work. Law 17.283 ("Environmental Protection Law") provides that natural and legal persons, public and private, have the duty to refrain from any act that causes depredation, destruction or serious contamination of the environment. It will correspond the imposition of sanctions for the infraction to the norms of protection of the environment.

#### 17. Environmental Incentives (for conservation or clean energy)

Uruguay, like most of the countries of Latin America, has adopted an approach based on negative incentives of civil and criminal sanctions to motivate natural and legal persons to comply with the specific obligations imposed by the Legislation.

At the constitutional level, article 47 of the Magna Carta declares that the protection of the Environment is of general interest.

At the legislative level, there are three Laws that provide incentives in a broad sense. In this sense, Law number 16.466 and Regulatory Decrees 100/005 and 349/005 declare the protection of the environment against any type of destruction, depredation or contamination of national interest, Law number 17.283 declares, of general interest, the Protection of the Environment in accordance with the provisions of article 47 of the Constitution of the Republic.

And with a more restrictive nature to its scope, Law number 19,175 declares the conservation, research and sustainable development of hydrobiological resources of general interest. Likewise, it is recognized that fishing and aquaculture are activities that strengthen the nation's territorial and food sovereignty.

#### 18. Financial Assurance

Decree No. 406 of 1988 issues the Occupational Health and Safety Regulations, circumscribing its scope of application to any public or private establishment of industrial, commercial or service nature, regardless of its activity and the purpose or non-profit of it. Article 229 of Law No. 16,320 on Accountability establishes the prohibition of transit and final disposal of radioactive waste in the country from third countries. And by article 225, article 167 of Law N ° 15903 is drafted, creating a nuclear and radiological safety protection rate.

At the international level, by Law No. 17910, the Joint Convention on the Safety of Spent Fuel and Safety of Radioactive Waste Management, approved in Vienna, on September 5, 1997, was approved.

Law No. 17588 approved the Convention on Nuclear Safety adopted in the city of Vienna on September 20, 1994, within the framework of the International Atomic Energy Agency. By Law No. 15,986, the Vienna Convention for the Protection of the Ozone Layer and its Annexes was approved, done in Vienna in 1985.

The legal enumeration is not exhaustive, since we can find in the Uruguayan legislation a vast regulation on this subject, referred to means that guarantee the repair of environmental damage in environmentally dangerous activities.