

Technical Administrative Legal And Environmental Protection


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ABSTRACT

Environmental law uses various techniques or tools to achieve its aims and objectives and for the protection of individual rights and interests involved. Administrative techniques can be systematized in terms of their content, distinguishing between preventive intervention techniques, development tools, techniques of repression, environmental planning, trading instruments and complementary economic measures.

Keywords: Environmental Law; Administrative Techniques; Environmental Planning

1. INTRODUCTION

 Environmental law, like any other branch of the order, using various techniques or tools to achieve its aims and objectives and for the protection of individual rights and interests involved. These figures environmental tax purposes, the techniques of civil protection of private interests against environmental abuses and environmental crimes. However, alongside these legal techniques, also known for their importance are administrative in nature, both from the general administrative law own specific instruments emerged in the environmental sector.

Administrative techniques can be systematized in terms of its content distinguishing between intervention techniques, development tools and techniques repressive liability of the administration, environmental planning, trading instruments and complementary economic measures.

2. ADMINISTRATIVE INTERVENTION

Public intervention in environmental matters is channeled primarily through management regulations issued by local administrations, regional, national and European level (1). Of course, the scientific and technical complexity and changeability of situations and activities with environmental significance requires that, in many cases, laws are limited to stating the guiding principles or provide the procedures and control techniques to defer detailed regulation subsequent regulatory development (well, the Law 16/2002 of 1 July, prevention and control of pollution in Article 7 refers to regulations for the determination of emission limit values). The phenomenon has today led to a proliferation of a regulatory standards in the environmental sector, where in many cases provide constraints on the activities and rights of citizens (for example, the Royal Decree 117/2003 of 31 January on the limitation of emissions of volatile organic compounds establishes the requirements to be met by new facilities that use certain amounts of solvents for the development of their activities). These references, often poorly determined, to regulations, and even administrative acts are a source of legal problems.

3. TECHNICAL DEVELOPMENT

As regards building techniques, which aim to achieve by indirect means and not mandatory, the auto-ordination of private activity in terms of aims and objectives of public interest set by the Administration, among them include grants and aids. These stimulatory measures decisively to support preventive mechanisms and are particularly suitable for installations already in operation, the review results in significant additional costs to companies, in most cases do not lead to productivity improvements.

From an administrative perspective, subsidies are a technique to promote certain behaviors considered of general interest and even a process of collaboration between the public and private management of public interest activities.

The various public authorities have the tools and financial aid grant and funding to help promote environmental policies, directed at both administrations themselves as private companies and individuals.

4. REPRESSIVE MEASURES

Other important legal instruments used by governments are repressive measures, which will be applied against breaches of the increasingly broad and complex environmental regulations.

Environmental violations may be subject to penal or administrative sanctions. Administrative sanctions may include, among others, in fines, suspension of activities, withdrawal of permits and decommissioning.

In the European Union law, the recommendation of the European Parliament and the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States, emphasizes the importance of conducting inspections of all industrial facilities, businesses and individuals in centers under Community law in force in relation to the environment to the granting of a permit or authorization.

The inspection work shall check whether the facilities meet EU environmental requirements as well as monitor the environmental impact of the facility. The Recommendation provides for the following activities: site visits, monitoring of compliance with environmental quality review of reports and statements of environmental audit, control of premises and equipment, checking the adequacy of environmental management and documents relevant.

5. ASSET LIABILITY MANAGEMENT

Liability for environmental damage may result from the implementation of an offense and can also come from private activities with environmental impact. Both criminal and civil liabilities are processed in other chapters of this Treaty.

But environmental responsibility may also correspond to public authorities. The importance of administrative responsibility in environmental issues is critical, not for nothing that environmental law is a predominantly public law and regulations on the environment is essentially administrative in nature.

Article 106.2 of the Spanish Constitution recognizes the right of citizens to be compensated for by the public administration for all injuries sustained in any of its property and rights, except in cases of force majeure, provided that the injury was the result of the operation of public services. The cited provision in addition to constitutionalize the responsibility of the Spanish Civil Service, generalizes the same for all cases - except force majeure - that the injury is suffered by the individual, in any property or rights, provided that it is the result of the operation of public services, without reference to the character of the same normal or abnormal. Over the constitutional guarantees that right in "the terms of the law", which are other than those provided in Article 139 and following of Law 30/1992 of 16 November on the Legal Regime of Public Administrations and the Common Administrative Procedure, precepts regulations developed by Royal Decree 429/1993 of 26 March.

In interpreting these rules, the Supreme Court has held that to require financial liability for the operation of public services need to meet the following requirements and budgets: a) Existence of an injury or damage to any property or rights of the individual concerned, b) Allocation to the Administration of the acts necessarily producing the injury or damage, c) Causal link between the act attributable to the administration and the injury or damage occurred, d) that the damage alleged by individuals to be effective, economically assessable and individualized in relation to a person or group of persons, e) does not concur force majeure or other cause of exclusion of liability, and f) That the action of liability for damages is brought within one year, counted after the event giving rise to compensation.

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