

STUDY
**RISK FACTORS
OF ADMINISTRATIVE
CORRUPTION IN
THE SYSTEM OF
MONITORING,
SURVEILLANCE,
PROSECUTION
AND ADJUDICATION
OF ENVIRONMENTAL
CRIMES**

IN THE DOMINICAN REPUBLIC

Espirales Consulting, SRL



**PARTICIPACIÓN
CIUDADANA**
movimiento cívico no partidista



**TRANSPARENCY
INTERNATIONAL**
the global coalition against corruption

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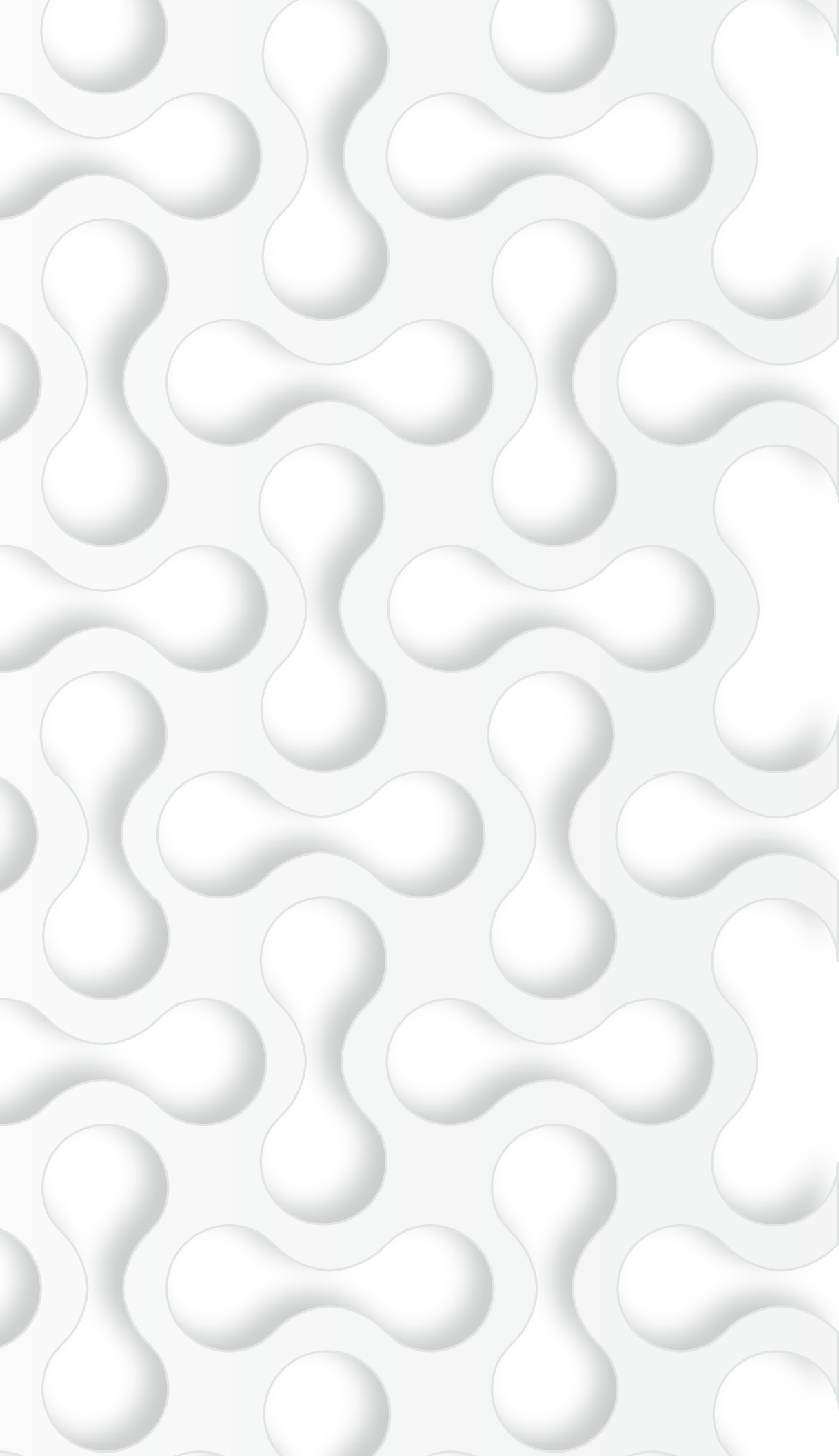


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The Climate Governance Integrity Programme (CGIP), implemented by Transparency International, aims to ensure that climate finance is managed with integrity, transparency and accountability in order to enable the most vulnerable communities to adapt to the climate crisis. This programme is implemented in more than 25 countries around the world.

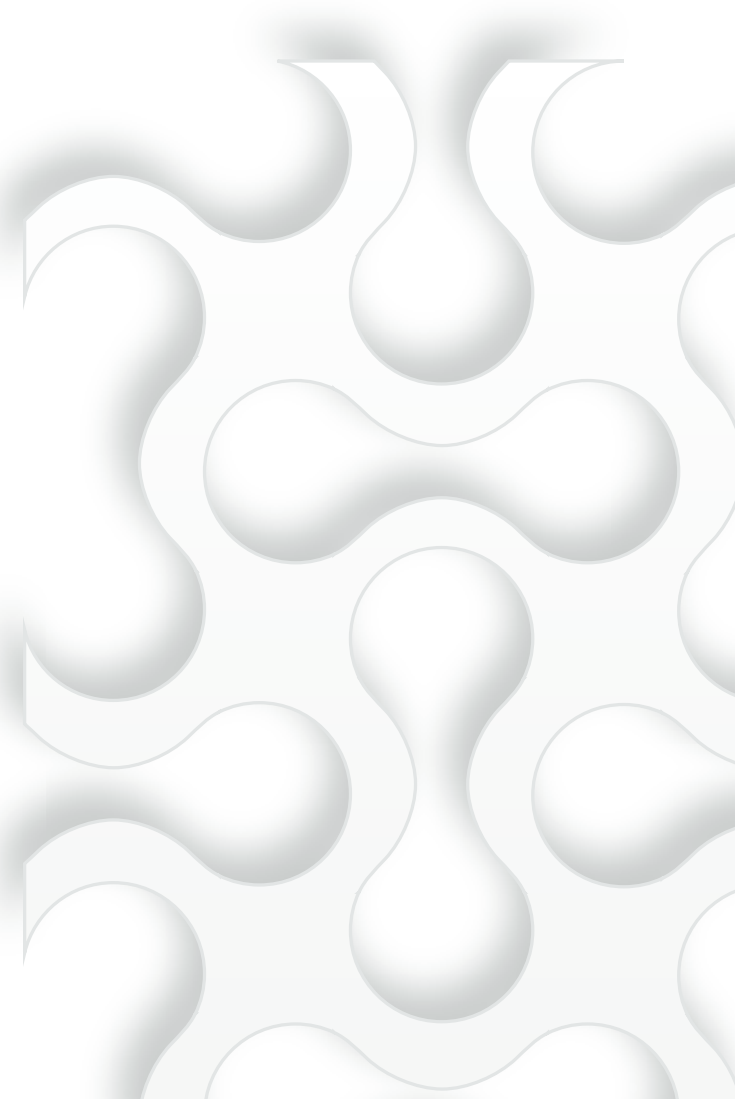
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ABBREVIATIONS AND ACRONYMS*

ANAMAR	National Authority for Maritime Affairs
D.N.	National District
OCDE	Organization for Economic Co-operation and Development
PEI	Institutional Strategic Plan
POA	Annual Operating Plan
RAE	Royal Academy of the Spanish Language
SENPA	National Environmental Protection Service
UNODC	United Nations Office on Drugs and Crime

*This list of acronyms and abbreviations, in Spanish, will be use throughout this document.



INTRODUCCIÓN

While it is true that the Dominican Republic improved its performance according to the Global Corruption Index¹, it is also true that it is still insufficient for the country to be managed according to the best national and international standards.

The study “Study of Risk Factors of Administrative Corruption in the System of Monitoring, Surveillance, Prosecution and Adjudication of Environmental Crimes in the Dominican Republic” is within the framework of the “Climate and Environmental Governance and Financial Integrity” initiative led by Participación Ciudadana, Dominican Chapter of Transparency International under the supervision of Transparency International of Germany, funded by Waverley Street Foundation. The programmatic framework of this project is summarized in

Climate Policy – Policy-making processes related to climate action are more transparent, accountable and inclusive.

Climate Action – Improving accountability, integrity and oversight of climate-related actions at global and local levels; and

Climate Justice – Better justice outcomes for victims of environmental crimes and corruption.

In this sense, this study focuses on the risk of corruption under the aspect of environmental crime, it has four parts. The first presents the theoretical framework that addresses the concepts of environmental policies, environmental governance and the distinction between crime and corruption. The second section presents the methodological framework and, at the same time, the limitations of this study. The third section states the main findings of this study, ending with its recommendations and conclusions.

¹ <https://www.transparency.org/en/cpi/2022>



I. THEORETICAL FRAMEWORK

To frame the study on the Risk Factors of Corruption of Risk of Administrative Corruption in the system of monitoring, surveillance, prosecution and adjudication of environmental crimes in the Dominican Republic, concepts related to environmental management, law and policies will first be addressed, from there offer a clue about the importance of the environment in the country. Secondly, the concept of environmental governance, the role of the State and civil society will be presented. Finally, the concepts of crime and corruption will be presented, and how one and the other could provide feedback, depending on how environmental crimes are managed.

1.1. Management, Law and Environmental Policies

1.1.1. ENVIRONMENTAL PROTECTION IN THE DOMINICAN CONTEXT

All living beings that inhabit the planet are nourished by the resources that are available in the environment, which is why the life of all flora and fauna is possible. The natural resources of the national territory are property of the State; these material elements are used as raw materials for the production of goods and services that can satisfy our needs for food, clothing, housing, energy, health and others.

For this reason, it is important to protect life and natural resources that satisfy everyone's vital needs

These State responsibilities, exercised through the government and its institutions, involve managing environmental public policies that include issues of international regulations and complex aspects such as climate change, the phenomena of girls and boys, pandemics (COVID-19 background) and in particular the fact that the country is an archipelago State that shares the island territory with the Republic of Haiti.



In the Dominican case, article 8 of the Dominican Constitution indicates that the State's essential function is **"the effective protection of the rights of the person, respect for their dignity and obtaining the means that allow them to perfect themselves in an equal manner, equitable and progressive, within a framework of individual freedom and social justice, compatible with public order, general well-being and the rights of all."**

On the other hand, Dominican civil society and various civil society organizations that represent it, have in recent years shown genuine interest in the protection of the environment and natural resources in the country.

The legal framework is rich and important, starting first with the Dominican Constitution, the international legal frameworks subscribed to by the country, the Environmental Law 64-00, among others. The country has several organizations that ensure the care and protection of the environment, such as: the Ministry of Environment and Natural Resources, the Ministry of Energy and Mines, the Minister of Agriculture, the Ministry of Defense, the National Service of Environmental Protection (SENPA), the National Authority for Maritime Affairs (ANAMAR), the Attorney General's Office for the Defense of the Environment and Natural Resources, the Dominican Council of Fisheries and Aquaculture (CODOPESCA), among other institutions.

1.1.2. ENVIRONMENT IN THE FRAMEWORK OF PUBLIC POLICIES

The Dominican Constitution develops in chapter four (4) everything related to natural resources, indicating are the Nation's patrimony all non-renewable natural resources found in the territory and in maritime spaces under national jurisdiction, genetic resources, biodiversity and the radioelectric spectrum.

The Constitution explains what the National System of Protected Areas is, the ecosystems and species it contains, which constitute patrimony assets of the Nation, which in themselves are inalienable, non-sizable and imprescriptible. From these premises, emerge in a cascade the hierarchization of environmental public policies on protection, usufruct and/or use, limits, and management of environmental liabilities.

Mining and hydrocarbon deposits and, in general, non-renewable natural resources, can only be explored and exploited under sustainable environmental criteria. Likewise, renewable natural resources may be used rationally with the conditions, obligations and limitations provided by law and by virtue of concessions, contracts, licenses, permits or quotas, under the conditions determined by the law.

A constitutional duty of the State is enshrined in article 67 of the Constitution, on the protection of the environment and it is to prevent pollution, protect and maintain the environment for the benefit of present and future generations.

The State, through the government, administers the environmental protection of the country, and the operational way to do so is through public policies, which give legitimacy to its actions in the pursuit of this goal. Public policies are contained in the decisions that the government determines and that are legitimized through laws, decrees, resolutions, regulations, ordinances, norms, standards, programs, plans, projects, agendas and guidelines.

This is why the State has enacted several laws, after the Constitution, the most relevant regulation for the planning, development and evaluation of public policies is Law 1-12, the National Development Strategy, (END). It foresees, in accordance with the Vision of the Nation, the Fourth Strategic Axis with a view to the protection of the environment in the country: "A society with a culture of sustainable production and consumption, which equitably and effectively manages the risks and protection of the environment and natural resources and promotes adequate adaptation to climate change."

The document explains that the Dominican Republic, as a small tropical island state, is prone to suffer the effects of climate change, which is aggravated by the vulnerability associated with the geographical position and the poverty situation that affects an important part of the population. The country suffers from the deterioration caused by current production and consumption patterns on the global environment, which is why the Law 1-12 provides for the development of consumption policies consistent with environmental sustainability that help develop effective systems for risk management, and adaptation to climate change.

Part of the progress in the development of this type of environmental public policies is in Decree 617-22 that establishes the bases of Green Public Procurement, (CPV) in the National Public Contracting System, (SNCCP). Dominican government institutions must manage their public purchases with sustainable and inclusive criteria, for example the acquisition of goods, works and services by State institutions that at the same time generate a lower impact on the environment and maximize socioeconomic impacts.

Likewise, this environmental criterion most form a transversal part in long-term development plans or institutional strategic plans, (PEI), in sectoral plans, regional plans, all linked to the National Multiannual Plans of the Public Sector, (PNPSP). The PNPSP operates with a medium-term time horizon (four years) and is updated every year. This is the instrument that defines and organizes the contribution of the public sector to the realization of the END in the medium term.

1.1.3. LEGAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION

The Constitution of the Dominican Republic (2015), in its article 67, addresses the issue of environmental protection. Through this article it is mentioned that the duties of the State include the prevention of pollution, as well as protecting and maintaining the environment for the benefit of present and future generations.

Starting from this situation, several public institutions are called to coordinate their work, others are created and the Planning System requires each institution to have a PEI and a POA that is linked to the legal framework and that its products allow it to materialize its institutional objectives in coherence with the legal framework.

Laws 64-00 on the Environment and Natural Resources, 202-04 Sectoral on Protected Areas, 313-15 Sectoral on Biodiversity and 219-15 on Biotechnology Safety, which seek to ensure the sustainable, ecologically balanced and adequate use and enjoyment of natural resources, for economic and human development. The adaptation to the legal framework of each state institution contributes to the preservation of different forms of life, landscape and nature; protecting in the national territory the introduction, development, production, possession, marketing, storage and use of chemical, biological and nuclear weapons and internationally prohibited agrochemicals, in addition to nuclear waste, toxic and dangerous waste.

An example is Law 287-04 on Prevention, Suppression, and Limitation of Noise and its modifications, which seeks for all people, individually and collectively, to enjoy a healthy environment and nature.

The country also has Law 57-07 on Renewable Energy Incentives and Special Regimes with which the State seeks to promote, in the public and private sectors, the use of non-polluting alternative technologies and energies.

The General Law of Comprehensive Management and Co-processing of Solid Waste, 225-20, which seeks to prevent the generation of waste, preserve the ecological balance, promote the reduction, reuse, recycling, use and valorization of waste, and prevent and control the factors of environmental deterioration.

The Ministry of the Environment, the SENPA, the Specialized Environmental Prosecutor's Office, the ANAMAR, the Ministry of Energy and Mines, the EDES, among other institutions, each of these public entities generates a report at the end of the year showing the statistics and with this information, compliance with the regulatory framework for environmental protection can be analyzed, since none of them brings together all the variables in the same report. The country has a robust body of regulations made up of national legislation and international treaties in this matter.

1.2. Environmental Governance

1.2.1. APPROACHING THE CONCEPT OF ENVIRONMENTAL GOVERNANCE

The Commission on Global Governance Published in New York by Oxford University Press, defines governance as the sum of the multiple ways in which people, public and private institutions manage their common affairs. It includes formal institutions and regimes empowered to enforce compliance, as well as informal agreements that people and institutions have agreed to or perceive as beneficial to their interests (Baxi, 1996). Thus, environmental governance refers to the set of processes, norms, policies and decisions that are carried out to manage natural resources and protect the environment (Montoya-Domínguez & Rojas-Robles, 2016).

Another definition of Environmental Governance proposed by Molina (2013), who states that it is a "phenomenon in which people and local communities assign meaning to the environment that surrounds them and how these individuals and communities manage actions, if possible, with a learning approach, to mitigate the impact of man [of the whole person] on the environment, in addition to involving the interaction of these communities with other institutions."

In this sense, through environmental governance, society as a whole seeks to establish decisions that promote or strengthen environmental policies; strengthen the institutions to coordinate the fulfillment of these mandates and integrate different actors and levels in the coordination. These actors involve the participation of governments, non-governmental organizations (NGOs), companies and local communities, in decision-making and the implementation of measures to promote environmental sustainability. To achieve this, an integrated approach is required that considers economic, social and environmental aspects.



Some examples of environmental governance instruments are environmental laws and policies, international agreements on climate change, environmental management systems, citizen participation in decision-making, and financing mechanisms for environmental projects. Therefore, promoting effective and participatory environmental governance is crucial to achieving sustainable development.

In the research carried out by Rosario, (2014) entitled Environmental Public Policies and Environmental Governance in the Dominican Republic, institutions closely linked to the execution of environmental governance stand out, such as: Environmental

Governance in the Jaragua-Bahoruco-Enriquillo Biosphere Reserve, Environmental Governance in Payment and Compensation Programs for Environmental Services, Environmental Governance in the National System of Protected Areas, Environmental Governance derived from the implementation of Clean Development Mechanisms, Environmental Governance in Loma Miranda.



1.2.2. INSTITUTIONS WITH RESPONSIBILITY FOR ENVIRONMENTAL GOVERNANCE/MANAGEMENT

Environmental governance focuses on the way decisions are made and policies implemented to address environmental challenges. In the Dominican Republic, one of the most important consensuses for the construction of Environmental Governance is the development and subsequent approval of the General Law of the Environment and Natural Resources (Law 64-00), which was the result of the work of different sectors where Civil Society groups, environmental NGOs and representatives of the public and private sectors converged. This law creates two coordination spaces: 1. National Council of Environment and Natural Resources (article 19) and 2) the National Environmental Management System (articles 24, 25 and 26).

The first instance of management and coordination is the National Council of Environment and Natural Resources, which brings together thirteen (13) state institutions, plus four representatives of NGOs representing the south, east, north and west, one representative of peasant organizations, two universities, and a representative of the business sector. For this council to operate, the law itself indicates that there must be regulations. Now, this council met for the first time in 2022, during the administration of the Minister of the Environment, Orlando Jorge Mera².

The second coordination instance is the National Environmental Management System. The institutions responsible for carrying out said management are:

- 1) Ministry of Environment and Natural Resources.
- 2) The institutional programming offices of the autonomous decentralized organizations that make up the sector.
- 3) Two representatives of the universities
- 4) The Environment and Natural Resources Commissions of the National District City Council, the municipal councils and the Municipal League.
- 5) Non-governmental organizations (NGOs) in the sector registered with the Ministry of Environment and Natural Resources.

² <https://ambiente.gob.do/por-primera-vez-luego-de-creada-la-ley-64-00-se-forma-el-consejo-nacional-de-medio-ambiente-y-recursos-naturales/>

KEY STATE INSTITUTIONS

In accordance with article 26 of Law 64-00, it is established that the institutions that are part of the National System of Environmental Management and Natural Resources must have environmental management units, organized with their own personnel and financed with the budget of each entity. Environmental management units are specialized structures, with functions to supervise, coordinate and follow up on environmental policies, plans, programs, projects and actions within their institution and to ensure compliance with its environmental standards (Law 64-00, 2000).

Likewise, there are a series of instruments necessary for these managing institutions to develop adequate environmental processes and services, for example:

1. Environmental planning
2. Territorial planning
3. The national system of protected areas
4. Environmental permits and licenses
5. Strategic environmental impact assessment
6. The national environmental information and natural resources system

The following table presents the main government institutions that have a fundamental role in the application of enforcing environmental policies, their relevance in the prosecution of environmental crimes and their contact information. These are responsible for safeguarding the rights and processes that involve the above mentioned.

INSTITUTION NAME	OBJECTIVES AND INSTITUTIONAL DESCRIPTION	INFORMATION
Ministry of Environment and Natural Resources	The Ministry of Environment and Natural Resources is the governing body for environment, ecosystems and natural resources management to comply with the powers that, in accordance with environmental legislation in general, corresponding to the State, in order to achieve sustainable development.	https://ambiente.gob.do/ Av. Cayetano Germosén esq. Av. Gregorio Luperón El Pedregal
Municipal Environmental Management Unit	The Municipal Environmental Management Units (UGAMs) are structures created by the Law 64-00 of the Environment and Natural Resources and ratified by the Law 176-07 of the National District and the Municipalities, which are located in the town halls in order to guarantee a harmonious development of urban settlements, the preservation of natural resources and a sustainable environment.	Each town hall
The National Fund for the Environment and Natural Resources (MARENA Fund)	MARENA Fund is an institution created to promote public and private investment that favors adaptability and strengthens the resilience of ecosystems and people. Its vision is to be the reference institution for the collection and administration of financial resources aimed at supporting environmental management that contributes to improve the quality of life of the population.	https://www.fondomarena.gob.do/ Av. 27 de Febrero 273, Plaza Central, 4to nivel local 418, Piantini 809-565-8461
National Environment Protections Service (SENPA)	Its objective is to investigate, pursue, arrest and submit to the competent authority, people or institutions that commit violations of environmental laws or any other related regulations, acting in accordance with the legal provisions that guarantee the protection of human rights and citizen protection.	Calle Héroes de Luperón, esquina Aut. 30 de mayo 809-222-9373 info@senpa.mil.do
Environment Defense Attorney's Office	The Attorney General's Office for the Defense of the Environment and Natural Resources is a specialized branch of the Attorney General's Office, as provided in Article 165 of Law 64 dated August 18th, 2000. Relevance in Environmental Crimes It arises from the prevailing necessity for environmental violators not only to be punished with the payment of an administrative fine, but also in the most serious and criminally relevant cases, they could be subject to jurisdiction, and the deprivation of their freedom, to be imposed as a sanction; imprisonment and fines imposed by the courts.	Avenida Pasteur 3, Gazcue 809-533-3522 Exts. 451, 452 y 453.

There are other government institutions that have the role of preventing and educating the population on environmental protection issues, such as: Ministry of Education, and the Ministry of Higher Education, Science and Technology (MESCyT). Other institutions have the role of administering, managing, enforcing the law from a security approach: Presidency Ministry, Agriculture Ministry, Public Health and Social Assistance Ministry, Public Works Department, Armed Forces, Tourism Department, Industry and Commerce Chamber, among others (see Law 64-00, article 19).

KEY CIVIL SOCIETY INSTITUTIONS

There is a vast number of civil society organizations that contribute to environmental governance, environmental protection, ensuring that the country implements policies in accordance with current legislation and the best national and international standards. As the number is quite large, and to ensure that they are all present, mapping them will be the subject of another complementary study.

1.3. Environmental Crime and Corruption

1.3.1. CRIME AND CORRUPTION?

Environmental crime refers to any illegal action that causes damage or harm to the environment. This may include air, water or soil pollution, the destruction of natural habitats, poaching, illegal trade in protected species, among others (Mejía, et al. 2002). In the summary of the agreements of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Cairo in 1995, it was suggested that for an environmental crime to be considered such, must consist of three components:

- a) The mental element, whether intention or negligence;
- b) The action or omission and
- c) The form of the crime.

The mental element that precedes criminal human behavior, whether due to the performance of an action or omission, is classified as fraud and is defined as "the free and conscious resolution to voluntarily carry out an action or omission provided for and sanctioned by law." (Elementary Legal Dictionary, Guillermo Cabanellas, 2006, Buenos Aires, Heliasta Printing Office).

Regarding the type of crime, the classification of crimes of action and omission José De la Mata Amaya (2007) "discriminates between those types of crimes in which the norm that contains it prohibits carrying out a conduct (crimes of action) and those in which orders to carry out a conduct (crimes of omission). Thus, correctly understood, it is not a classification that addresses the description of human action but, more properly, whether the norm violated is a prohibition or a mandate. (José De la Mata Amaya, theory of crime, 2007, National School of Judiciary, Santo Domingo)

Regarding the form of the crime, José De la Mata Amaya (2007) explains that in the Dominican Penal Code it is established in "art. 1 a tripartition of the criminal types depending on the severity of the applicable legal consequences and which, from least to most serious, are contraventions, misdemeanors and crimes" and details a classification of crimes: instantaneous and permanent, mere activity and result, action and omission, own omission and commission by omission, determined and resulting means, and an act, a plurality of acts, alternative or habitual. All of these definitions applicable to environmental crimes.

The existence of a crime requires taking into account the rationality, predictability and necessity of the action, also considering the need to balance the interests between an adequate environment and the necessary industrial development. Furthermore, the preventive aspect of environmental crimes is considered also useful.

Corruption, on the other hand, "any event in which a position of power or influence is used to divert resources (temporal, human, economic, etc.) from public management towards private benefit³." Corrupt acts can be contained in five forms: 1. bribery and higher cost of goods and services, 2. Diversion of funds, 3. clientelism, 4. Favoritism/nepotism (non-universality criteria) and adulteration of public documentation. In this sense, environmental corruption, on the other hand, refers to the abuse of power or position to obtain personal benefits or to favor particular interests to the detriment of the environment. This may involve bribery, extortion, embezzlement of funds intended for environmental protection, among other corrupt acts.

Both concepts, crime and corruption, can be closely related, since corruption can facilitate the commission of environmental crimes by allowing illegal activities to go unnoticed or avoid law enforcement.

1.3.2. NATIONAL POLICIES ON ENVIRONMENTAL MANAGEMENT AND CRIMES

The Dominican Environmental Policy has three aspects that are necessary for it to be developed effectively. The first of them is the 'Establishment of guiding principles and basic objectives proposed by the government to achieve environmental protection', followed by the 'Use of instruments to influence the behavior of social agents, in order to minimize environmental deterioration or maximize the positive effects of their actions' and finally 'Development of an action plan, statement of principles and ideals'. Following these bases, the legal mechanisms of environmental policy are worked on, thus containing a hierarchical order of execution (Mejía , et al. 2002) .

³Ver Bideborst, Pablo 2020 <https://www.redalyc.org/journal/3575/357565951008/html/>

To better understand this structure, it is important to clarify the powers and obligations of the competent authorities in environmental matters, both for citizens and for the instances or bodies involved in criminal and administrative sanctioning processes. An adequate distribution of powers avoids confusion, dispersion of institutional efforts and the incorrect or discretionary exercise of powers. It is essential to establish reciprocal control between the different public power bodies that participate in environmental criminal proceedings.

For the oversight of environmental policy, there is a legal system, at the governance level, and several key instances for it. On the one hand there is the Environmental Police, its function, according to the law, is to prevent, regulate and control any cause or activity that causes deterioration to the environment. Then there is the Ministry of the Environment, which functions include developing the country's national policy on the environment and natural resources as well as implementing and supervising the national policy on the environment and natural resources, among other collaborations with institutions. There is also the Attorney General's Office for the Defense of the Environment and Natural Resources, a department of the Attorney General's Office, which has among its criminal responsibility to supervise those who commit environmental crimes.

In our country some of the main areas covered by the legal framework includes:

- **Environmental legislation:** Environmental laws establish general principles for the protection of the environment and the conservation of natural resources. These laws address issues such as air, water and soil quality, waste management, protection of biodiversity and pollution prevention.
- **Environmental impact assessment:** Seeks to evaluate the environmental impact before carrying out projects or activities that may have a significant impact on the environment. This involves evaluating possible negative effects and taking measures to mitigate or avoid them.
- **Emission and environmental quality standards:** The standards establish the maximum permitted emission limits for different pollutants and establish environmental quality standards for air, water and soil. These standards help control and reduce pollution.

- **Protection of natural areas:** inclusion of protected areas, such as national parks, natural reserves and protected areas. These areas have specific regulations to preserve their biodiversity and natural habitats.

- **Environmental liability:** Environmental liability legislation establishes the obligation of people and companies to repair any damage caused to the environment.

That is why the most prominent legislatures that intervene in environmental regulation and their objectives are described and classified below:

ENVIRONMENTAL LEGAL FRAMEWORK	FUNCTIONALITY OR LEGAL IMPACT
Laws	<ul style="list-style-type: none"> • Law 225-20; comprehensive management and co-processing of solid waste • Law 90-19; modifies law 287-04 on prevention, suppression and limitation of noise • Law 57-18; forestry sector of the Dominican Republic • Law 313-15; biodiversity sector • Law 219-15; on biotechnology safety • Law 313-14; creates the northern marine sanctuary • Law 100-13; creates the Ministry of Energy and Mines • Law 176-07; about the municipal district and municipalities • Law 57-07; incentive for renewable energies and special regimes • Law 66-07; declares the Dominican Republic as an archipelago state • Law 287-04; on prevention, suppression and limitation of harmful and annoying noises that cause noise pollution • Law 307-04; fishing and aquaculture • Law 202-04; protected areas • Law 147-02; about risk management • Law 42-2001; general health • Law 64-00; on environment and natural resources • Law 120-99; that prohibits any physical or legal person from throwing solid waste of any nature on streets, sidewalks, parks, highways, street containers, paths, public baths, seas, rivers • Law 573-77; which establishes a zone contiguous to the territorial sea, the exclusive economic zone and the continental shelf • Law 146-71; mining of the Dominican Republic • Law 123-71; prohibits the extraction of components of the earth's crust like sand, gravel, pebble-sand and stone. • Law 186-67; over the territorial sea area of the Dominican Republic • Law 95-67; which prohibits the exploitation of hawksbill turtle shells in their raw state • Law 5856-62; forest conservation and fruit trees • Law 3003-51; about port and coastal police • Law 227-40; extraction of products derived from forests
Decreets	<ul style="list-style-type: none"> • Decree 627-21; that approves the regulations of Forestry Sector Law 57-18 • Decree 006-18; that establishes a fishing ban on crabs throughout the national territory • Decree 87-15; that prohibits the development of intensive agricultural activities on soils whose slope or inclination exceeds sixty percent (60%) in the upper basin of the Ozama River. • Decree 346-14; that establishes the operating regulations for cleaner production and efficient and sustainable use of natural resources • Decree 337-13; that creates the national network of cleaner production • Decree 571-09; that creates scientific reserves, ecological parks and other protected spaces • Decree 530-09; that declares a national emergency the channeling, adaptation and removal of sediments from the irrigation districts: Alto Yaque del Norte, Bajo Yaque del Norte, Bajo Yuna, Yuna-Camú, Ozama, Nizao, Valle de Azua, Valle de San Juan, Lago Enriquillo, Yaque del Sur • Decree 636-06; which places the SENPA under the dependence of the Ministry of Environment and Natural Resources

ENVIRONMENTAL LEGAL FRAMEWORK	FUNCTIONALITY OR LEGAL IMPACT
Decrees	<ul style="list-style-type: none"> • Decree 561-06; which provides that the national environmental protection service or environmental police, created by Decree 1194-00, with all its facilities and infrastructure, becomes a dependency of the Secretary of State of the Armed Forces • Decree 789-04; that creates the national cleaner production program • Decree 1194-00; that creates the national environmental protection service (SENPA) • Decree 112-95; which declares of high national interest the effective protection of the country's beaches and the reef network that surrounds it
Rules	<ul style="list-style-type: none"> • Environmental Standard on Groundwater Quality and Subsoil Discharges • Environmental Standard on Environmental Management of Marines • Environmental Standard on Radioactive Waste • Environmental Standard on Environmental Management of Non-Hazardous Solid Waste • Environmental Standard on Comprehensive Management of Infectious Waste • Environmental Standard on Noise Control • Forest Management Technical Standard
Regulations and Solutions	<ul style="list-style-type: none"> • Regulations for the Environmental Management of Pig Farms • Regulation Establishing the Registration and Certification Procedure for Environmental Service Providers • Research Regulations in Protected Areas and Biodiversity • Regulation of Administrative Sanctions for the Environment and Natural Resources • Control Regulations in Consistency with the Application of Chapter XVII of the Free Trade Agreement between Central America, the Dominican Republic and the United States (DR-CAFTA). • Resolution 001-15 that establishes the Procedure for the recovery of Multilateral Recycling with commercial value • Resolution 18-2007 Approving the Regulations for Environmental Control, Surveillance and Inspection and the Application of Administrative Sanctions, list of Administrative Illicit and Surveillance and Inspection Manual • Resolution 11-2007 that approves the Forest Regulation • Resolution 09-2006 that promulgates the Environmental Regulation for Plants for the Storage, Packaging and Sale of Liquefied Petroleum Gas (LPG) • Resolution 12-2003 that Approves and Issues the Standard for the Environmental Management of Municipal Waste • Resolution 11-2003 that Approves and Issues the Standard for the Management of Radioactive Waste
International Mutilateral Agreements and Conventions	<ul style="list-style-type: none"> • International Whaling Commission (IWC) • United Nations Convention against Desertification and Drought (UNCCD) • United Nations Convention to Combat Desertification and Drought • United Nations Framework Convention on Climate Change (UNFCCC) • United Nations Framework Convention on Climate Change (UNFCCC) of 1998 • Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) of 1986 • Convention on Wetlands of International Importance or Ramsar convention • Basel Convention on the Control of Transboundary Movements of Hazardous and Other Wastes • Stockholm Convention on Persistent Organic Pollutants (POPs) • UN Convention on Biological Diversity • Minamata Convention • Paris Convention • Rotterdam Convention (International Trade in Certain Pesticides and Hazardous Chemicals) • Vienna Convention for the Protection of the Ozone Layer • International Convention for the Prevention of Pollution from Ships (MARPOL) • Convention on International Trade in Species of Flora and Fauna Threatened with Extinction • Convention on Biological Diversity (CBD) and its Cartagena Protocol on Biosafety (2005) • Kyoto Protocol • Montreal Protocol • Montreal Protocol on Substances that Deplete the Ozone Layer

ENVIRONMENTAL LEGAL FRAMEWORK	FUNCTIONALITY OR LEGAL IMPACT
Multilateral Agreements and Conventions at the Regional Level	<ul style="list-style-type: none"> • Central American Alliance for Sustainable Development (ALIDES) • Central American Commission for Environment and Development (CCAD) • Cartagena Convention • SPAW protocol • Central American Integration System (SICA) • Dominican Republic – Central America – United States Free Trade Agreement (DR-CAFTA)



II. STUDY DESCRIPTION

2.1. Goals

The general objective was focused on collecting relevant information on the risk factors of administrative corruption in the system of monitoring, surveillance, investigation, prosecution and adjudication of environmental crimes. Specifically, it sought to represent the distribution of different environmental crimes and the mechanisms for presenting and monitoring complaints presented by communities and/or civilians to the competent agencies of the Dominican state.

2.2. Methodology

To carry out this study, a combination of qualitative and quantitative approaches was used. This mixed design has served the Espirales research team to characterize and analyze the situation of Risk Factors of Administrative Corruption in the Monitoring, Surveillance, Investigation, Prosecution and Adjudication System of Environmental Crimes in the Dominican Republic. An analysis of hard data was carried out providing the political, legal and institutional framework at both the national and international levels assumed in terms of transparency and management of environmental crimes, as well as from other secondary sources.

The consulting team took as a starting point the technical proposal of the project, the national and international legislative framework, the crime reporting statistics of the Environmental Prosecutor's Office corresponding to January 2019 to December 2022⁴, investigations and reports that account for the reality and context on the risks of administrative corruption in the monitoring and surveillance system for environmental crimes, as well as transparency and accountability for environmental crimes and the level of participation of women in the different stages.



⁴ Initially, the data to be analyzed was scheduled to be from 2015, the organized and systematized statistics provided correspond to 2019.

Ten (10) in-depth interviews were conducted with people (5 men, 5 women) who have technical and management expertise in the area of administrative corruption, transparency, accountability and management of environmental crimes of both the State and society, civil society and community organizations, making the presence of women visible due to the key roles they play, both in their technical role and in their role as community activists.

A self-applicable survey was designed and circulated to civil society organizations and groups that work on environmental protection. The survey, which was completed from December 18 to 22, 2023, was completed by twenty-nine (29) organizations. Of these, 62.1% (18 in total) corresponded to local NGOs, 20.7% (6 in total) were representatives of Community Organizations, 10.3% (3 in total) were Multilateral Organizations, and 3.4% (1 in total) representing both neighborhood associations and religious institutions.

The study was carried out in four phases, which in some cases were carried out simultaneously. The four phases have been: preparation (phase 1), field work (phase 2), transcription of the data obtained (phase 3) and data analysis (phase 4). Its duration was eight weeks, from November 8th to December 30th, 2023 to January 3rd, 2024.

2.3. Limitations of the study

The study was carried out in eight calendar weeks, and this period included the last two weeks of December 2023 and the first days of January 2024, which made it difficult to obtain data from the State and carry out planned interviews with government representatives which could not materialize. This situation reduced, on the one hand, the analysis time as well as the quality of the data to be analyzed, which served as a fundamental input for the analysis of this study.

The crucial information, databases of the Ministry of the Environment and the Specialized Attorney for the Defense of the Environment and Natural Resources were fundamental for this mapping.





III. MAIN FINDINGS

The findings of this study fall into four categories. The first has been to have prepared a mapping of environmental crimes in the Dominican Republic (2019-2022), based on hard data from the Environmental Prosecutor's Office. Secondly, having located the Risk factors of Administrative Corruption in the System for Monitoring, Surveillance, Prosecution and Adjudication of Environmental Crimes in the Dominican Republic, based on interviews and surveys with different actors. Third, put new environmental issues on the table that are a challenge for environmental management. And finally, locate some gaps in the legal and institutional political framework. The origin of the information for these last two comes from documentary sources, in-depth interviews and the carried-out survey.

3.1. Mapping environmental crimes in the Dominican Republic

Based on crime reporting statistics received from the Office of the Attorney General for the Environment and Protection of Natural Resources corresponding to the period January 2019 to December 2022. As will be seen below, the data has been organized by year and categorized as follows:

VARIABLE	CODE
Sonic Pollution from music	MUSIC
Sonic Pollution by other forms	PATHWAYS
Air Pollution	ATMOSPHERE
Sonic and Atmospheric Pollution	SO_ATM
Water pollution	HIDRI
Visual pollution	VISUAL
Soil contamination	C_SOIL
Pollution	SUM_CONT
Floor change	CAM_FLOOR
Manipulation and Trade of Fauna	FAUNA
Illegal fishing	FISHING_IL
Illegal hunting	HUNTING_IL
Flora Handling and Trade	FLORA
Chopping and/or Destruction of trees	TREES
Extraction of Aggregates from the Earth's Crust	TERRESTRIAL
Illegal transport of aggregates	AGGREGATES
Production and/or transportation of charcoal	CHARCOL
Forest fires	FOREST
Possession and transp. Illegal wood	WOOD
Construction in the maritime strip	MARITIME
Protected areas	PROTECTED
Alteration of the Ecosystem	SUM_ECO
Transport of toxic or dangerous waste	T_DANGEROUS
Disposal of toxic or dangerous waste	D_DANGEROUS
Throwing away of toxic or dangerous waste	T_DANGEROUS
Improper waste management	SUM_PEL
Occupation of public spaces	PUBLIC
Irregular obtaining of environmental licenses or permits	L_ENVIRONMENTAL
Violation of environmental licenses or permits	V_ENVIRONMENTAL
Administrative Irregularities	SUM_ADM

3.1.1. LAND DISTRIBUTION

The information was organized taking the reference the Law 345-22 of Single Planning Regions in the Dominican Republic, and regrouped depending on the availability of the data as follows:

- CIBAO NORTHEAST REGION
- CIBAO NORTH REGION and CIBAO NORTHWEST REGION
- CIBAO SOUTH REGION
- EL VALLEY REGION
- ENRIQUILLO REGION
- HIGUAMO REGION, YUMA REGION-AND CIBAO SUR REGION
- OZAMA REGION
- VALDESIA REGION

3.1.2. CRIME CATEGORY

Los delitos fueron categorizados de la siguiente manera:

Pollution crimes. Among these are considered: noise pollution from music, noise pollution from other means, atmospheric pollution, sound and atmospheric pollution, water pollution, visual pollution and soil pollution.

Alteration of the ecosystem. This category includes: protected areas, building in the maritime zone, illegal possession and transportation of wood, forest fires, production and /or transportation of charcoal, illegal transportation of aggregates, extraction of aggregates from the earth's crust, cutting and/or destruction of trees, management and trade of flora, illegal hunting, illegal fishing, handling and trade of fauna, soil change.

Improper waste management. These crimes refer to improper management, transportation or disposal of toxic and hazardous waste.

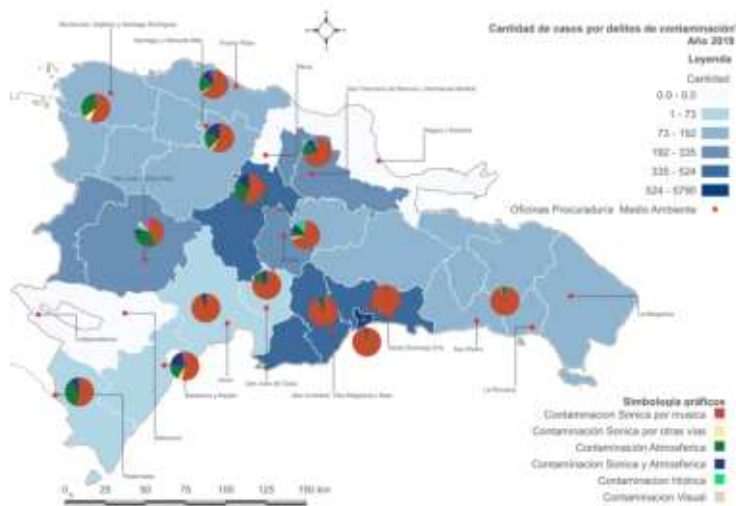
Administrative irregularities. These include crimes of occupation of public spaces, irregular obtaining of environmental licenses or permits, violation of environmental licenses or permits.

3.2. Data analysis by year and crime category 2019

Based on crime reporting statistics received from the Office of the Attorney General for the Environment and Protection of Natural Resources for the period January 2019 to December 2022. As will be seen below, the data has been organised by year and categorised as follows:

Source: Ministry of Environment and Natural Resources of the Dominican Republic. For more detailed information please visit MIMARENA's web page <https://ambiente.gob.do/informacion-ambiental/>

POLLUTION CRIMES



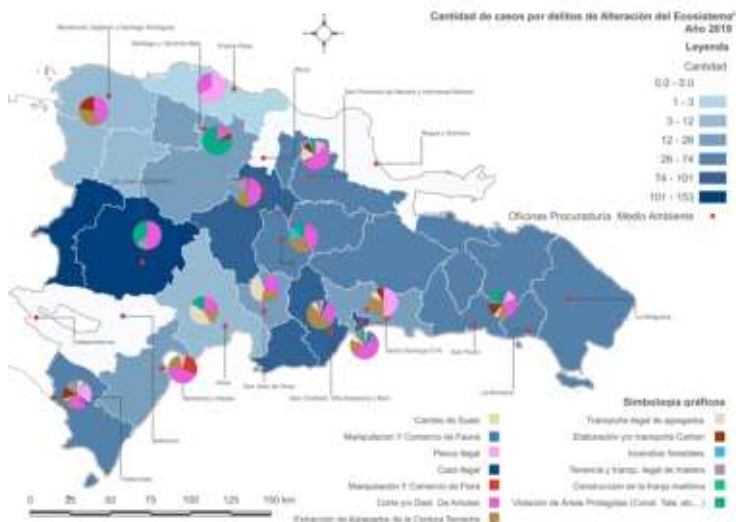
In the Pollution category, among the districts with the highest number of records of crimes due to pollution, Santo Domingo DN stands out, with an extreme of 5,616 reports of crimes due to noise pollution. On the other hand, with values ranging from 160 to 486 crimes are the districts of: San Cristóbal, Villa Altagracia and Baní; Santo Domingo; San Francisco de Macorís and Hermanas Mirabal; La Vega and Constanza; Bonao, and the eastern region of the country.

Air pollution presents notable crimes in the municipalities of La Vega and Constanza (121), San Juan and Elías Piña (85); Santo Domingo DN (82); San Francisco de Macorís and Hermanas Mirabal (57)

Regarding water pollution, Bonao (23), San Juan and Elías Piña (14) have the highest frequency of environmental crimes.

For soil contamination reports, San Juan and Elías Piña also leads with 30 reports, and are followed by San Francisco de Macorís and Hermanas Mirabal with 18.

ECOSYSTEM ALTERATION



The environmental prosecutor's offices with the greatest number of reports in the ecosystem alteration category are the following:

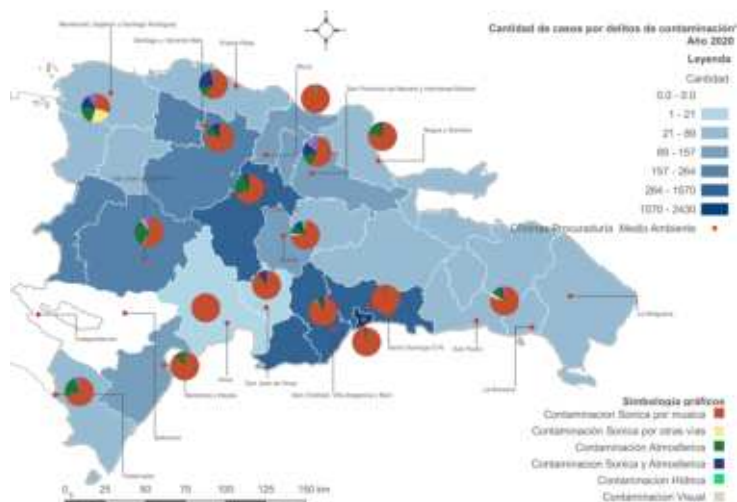
San Juan and Elías Piña (153); Santo Domingo DN (101); San Cristóbal, Villa Altagracia and Baní (96); La Vega and Constanza (93); Pedernales (74); Bonao (43).

On the other hand, 14 districts reported crimes of cutting /destruction of trees. The most notable are: San Juan and Elías Piña (78); Santo Domingo DN (49); La Vega and Constanza (43). San Juan and Elías Piña (55); Montecristi, Dajabón and Santiago Rodríguez (14) have presented cases of occupation in protected areas. For its part, Pedernales has 10 crimes related to the production and /or transportation of charcoal.

3.3. Data analysis by year and crime category 2020

Source: Ministry of Environment and Natural Resources of the Dominican Republic. For more detailed information please visit MIMARENA's web page <https://ambiente.gob.do/informacion-ambiental/>

ENVIRONMENTAL POLLUTION CRIMES



Environmental pollution represented the majority of environmental crimes, with noise pollution being the one that recorded the largest number of reports, concentrated in a greater proportion in the following districts: Santo Domingo DN (2369) in addition to 16 other cases of noise pollution by other ways; Santo Domingo (1549); San Cristóbal, Villa Altagracia and Bani (386); La Vega and Constanza (284); Santiago and Valverde Mao (209).

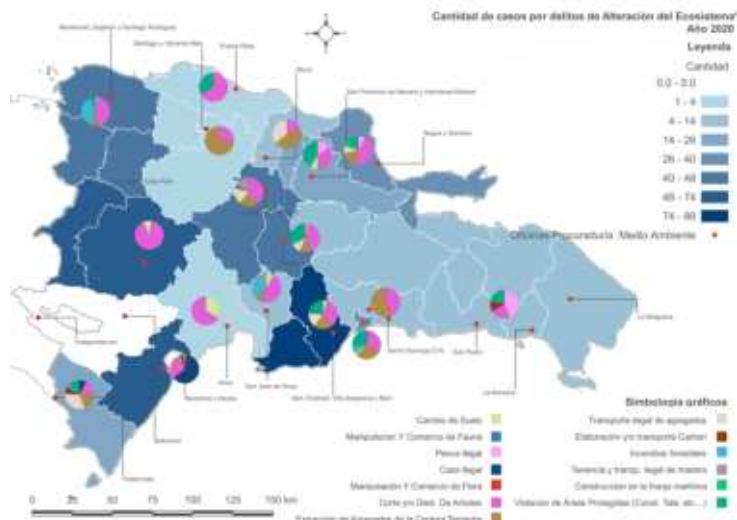
On the other hand, a significant number of crimes due to air pollution are also recorded in 12 environmental prosecutor's offices; the most significant are found in: La Vega and Constanza (107), San Juan and Elías Piña (76); Santiago and Valverde Mao (28).

Santo Domingo DN (23) and with values ranging between 10 and 20 crimes: San Francisco de Macorís and Hermanas Mirabal; Nagua and Samaná; San Cristóbal, Villa Altagracia and Bani; Bonao; Santo Domingo; Montecristi, Dajabón and Santiago Rodríguez; Barahona and Neyba, Pedernales.

Regarding soil contamination, crimes were also reported mainly in San Juan and Elías Piña (18); San Francisco de Macorís and Mirabal Sisters (16) Montecristi, Dajabón and Santiago Rodríguez (6)

On the other hand, Elías Piña and San Juan de la Maguana report 7 crimes due to water pollution. Soil contamination in San Juan and Elías Piña recorded 18 crimes due to soil contamination and in San Francisco de Macorís and Hermanas Mirabal 16.

ECOSYSTEM ALTERATION

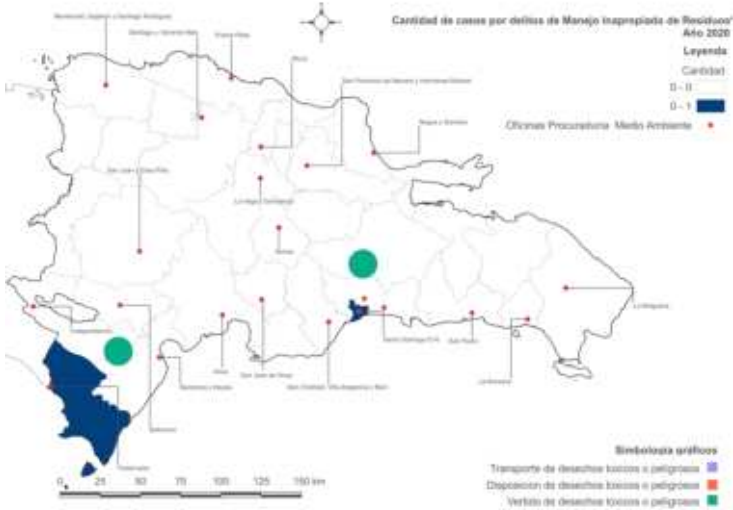


On the other hand, 17 prosecutor's offices report crimes for cutting/destruction of trees. The main municipalities that stand out the most are: San Cristóbal, Villa Altagracia and Bani (31); San Juan and Elías Piña (65); Barahona and Neyba (16); Bonao (20); Montecristi, Dajabón and Santiago Rodríguez (21).

The extraction of aggregates from the earth's crust, 83 crime reports are presented in 15 prosecutor's offices, the most relevant being: San Cristóbal, Villa Altagracia and Bani (18), Santo Domingo DN (12), La Vega and Constanza (9).

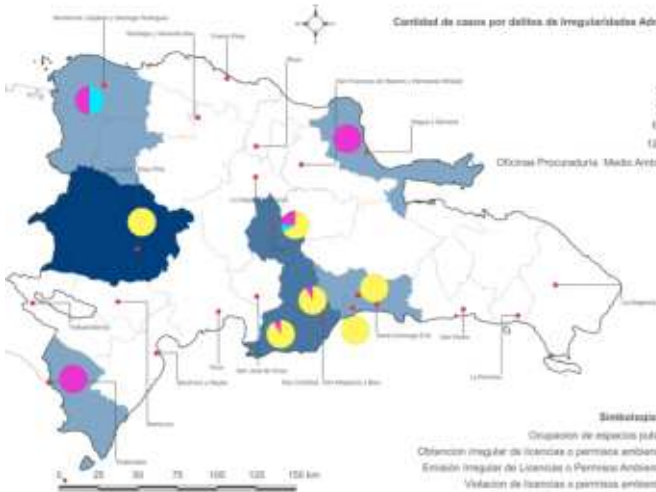
Likewise, relevant information appears for violation of protected areas, and illegal hunting with a report of 45 crimes in San Juan de la Maguana and Elías Piña.

IMPROPER WASTE MANAGEMENT



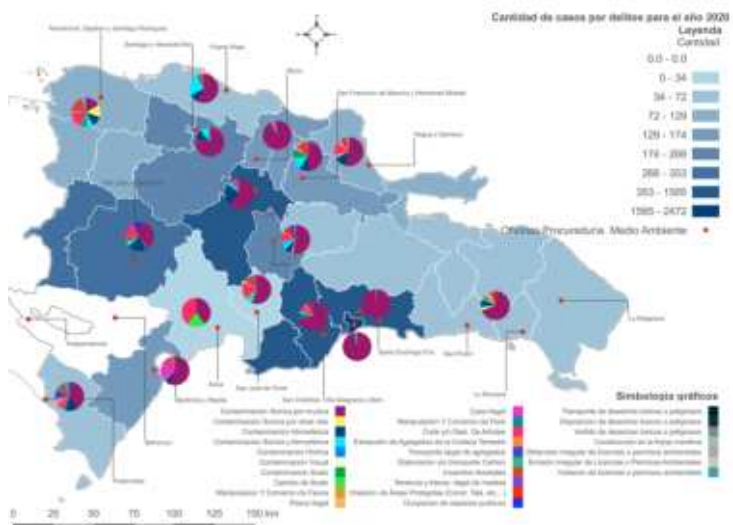
Regarding inappropriate waste management, during 2020 only two cases were reported, one in Pedernales and another in Santo Domingo, DN.

ADMINISTRATIVE IRREGULARITIES



The administrative irregularities were reported in the subcategory of violation of environmental licenses or permits: Pedernales (5); Bonao (3); Montecristi, Dajabón and Santiago Rodríguez (3) San Cristóbal, Villa Altagracia and Bani (1) Nagua and Samaná (1).

SUMMARY OF CASES BY CRIME 2020



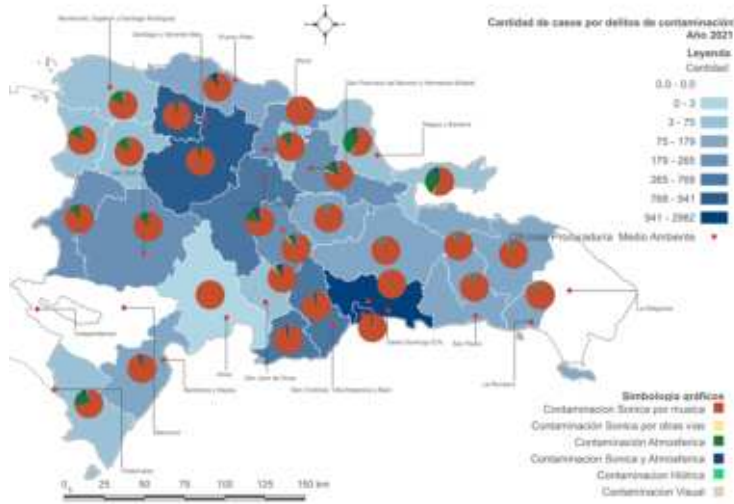
For 2020, 6,855 environmental crimes were reported distributed in the 26 categories considered in this report, of which 91% correspond to environmental pollution, and mainly to noise pollution of which 5,597 records are presented. The remaining 9% of crimes are distributed across the remaining 25 subcategories. As a result, 1,863 cases were closed, which represents a mere 27% of the crime cases reported for the year, even so, 77 arrests and 10 rulings were reached.

As a weakness, it can be observed that Bahoruco, Independencia and Azua do not present crime reports except for only two cases of noise pollution in Azua.

3.4. Data analysis by year and crime category 2021

Source: Ministry of Environment and Natural Resources of the Dominican Republic. For more detailed information please visit MIMARENA's web page <https://ambiente.gob.do/informacion-ambiental/>

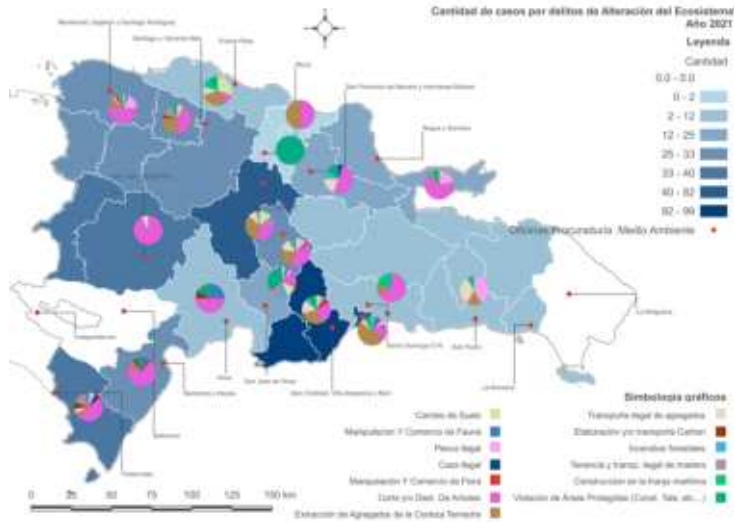
POLLUTION CRIMES



The most frequently reported environmental crimes are concentrated in Santo Domingo and the National District with up to 2,964 reports of noise pollution in Santo Domingo;

Santiago and Valverde, in addition to having more than 800 reports of environmental crimes due to noise pollution, present 24 for atmospheric pollution and another 14 for noise and atmospheric pollution, while La Vega and Constanza also show a significant incidence of crimes due to atmospheric pollution with 112 and 56 classified as sonic and atmospheric. San Francisco de Macorís shows the highest number of reports of soil contamination, with 6 crimes.

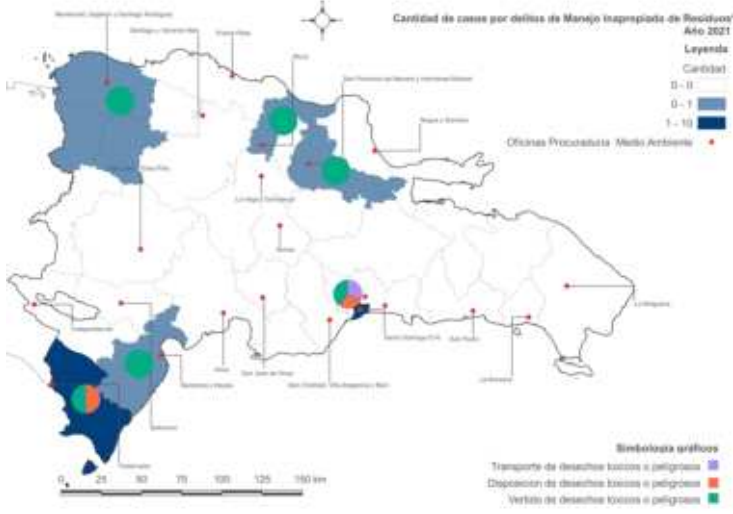
ECOSYSTEM ALTERATION



On the other hand, 8 prosecutor's offices have reported between 30 and 99 cases each distributed in the different categories described in the ecosystem alteration.

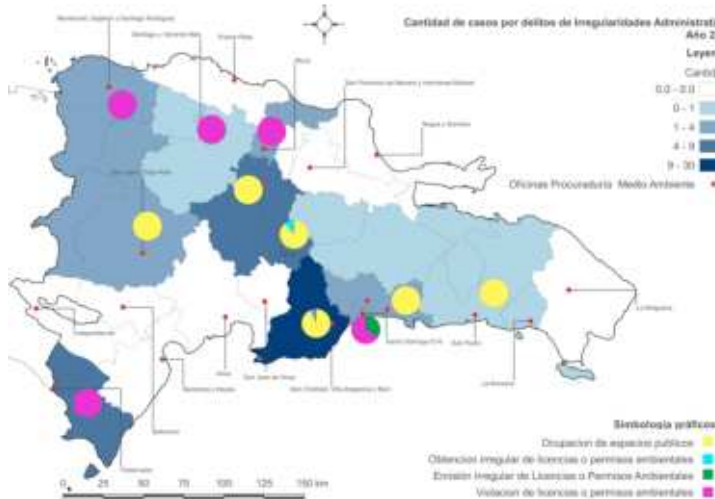
The prosecution that includes San Cristóbal, Villa Altagracia and Bani stands out, with 26 crimes of destruction of trees, 27 aggregates of the earth's crust, 15 production and /or transportation of charcoal. Santo Domingo DN, 42 aggregates of the earth's crust, San Juan and Elías Piña shows 36 reports of tree cutting, Pedernales presents 6 reports of illegal wood possession and transportation.

IMPROPER WASTE MANAGEMENT



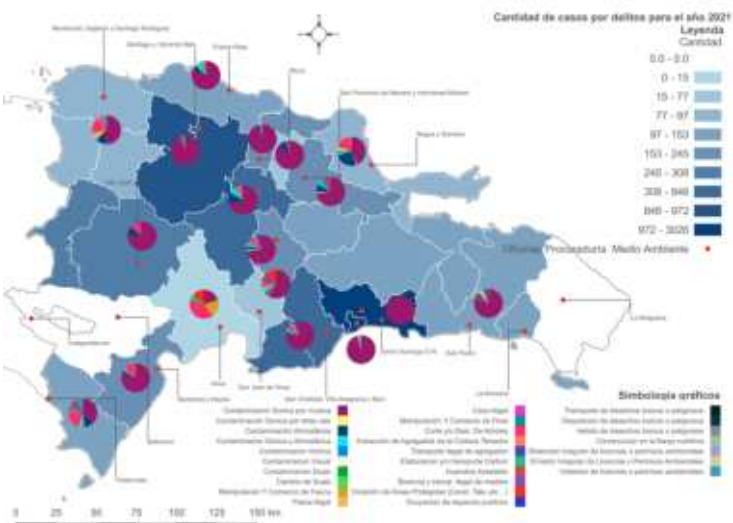
Environmental crimes were reported due to inappropriate waste management, specifically due to the dumping of toxic and dangerous waste in Pedernales; Montecristi, Dajabón and Santiago Rodríguez, Moca, San Francisco de Macorís, Barahona and Neyba. Particularly in Santo Domingo DN, 4 cases were reported and also 4 crimes for transportation and 3 for improper waste disposal.

ADMINISTRATIVE IRREGULARITIES



In this category, the following stand out: San Cristóbal, Villa Altigracia and Bani 30 reports, 28 corresponding to occupation of public spaces.

SUMMARY OF CASES BY CRIME 2021



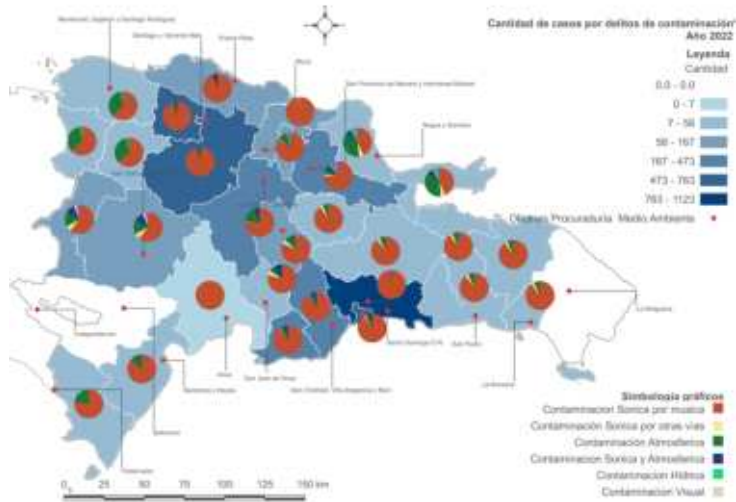
For the 2021 period, 10,497 environmental crimes were registered, of which 9,300 correspond to noise pollution, that is, 89% of the cases, while the remaining 11% are distributed in the other categories of environmental crimes considered in this report.

As a result, 6,328 rulings were issued, including 12 detentions. Bahoruco, Independencia, La Altigracia do not present reports of any category. It is important to encourage the reporting of environmental crimes in the above-mentioned locations.

3.5. Data analysis by year and crime category 2022

Source: Ministry of Environment and Natural Resources of the Dominican Republic. For more detailed information please visit MIMARENA's web page <https://ambiente.gob.do/informacion-ambiental/>

ENVIRONMENTAL POLLUTION



In the environmental pollution category, reports are presented in 19 of the 22 prosecutor's offices that present data in 2022, mainly on noise pollution.

7 prosecutor's offices have reported more than 200 crimes for this concept, among them: Santo Domingo (1110), Santiago and Valverde Mao (725), Santo Domingo DN (615). La Vega and Constanza (358), San Francisco de Macorís (245); San Cristóbal, Villa Altagracia and Bani (237).

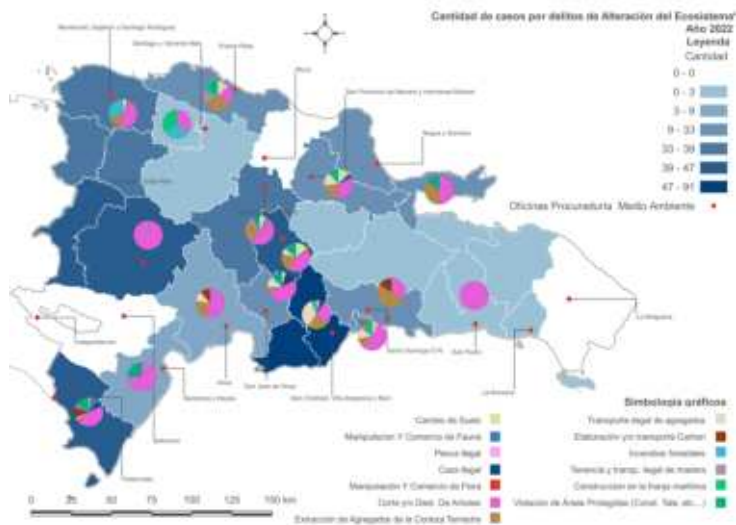
Air pollution stands out for having been reported by 16 prosecutor's offices with a significant number of crimes in: La Vega and Constanza (85), Santiago and Valverde (22). Santo Domingo DN (22), Nagua and Samaná (22).

Water pollution also presents progress compared to other years, with several prosecutor's offices presenting records, highlighting: San Francisco de Macorís (6); Nagua and Samaná (3); Mirabal Sisters (3); Bonao (2).

Regarding soil contamination, San Francisco presents 30 alarming cases for this concept.

It is striking that awareness of visual pollution is beginning to be created, with 3 crimes occurring in San Juan and Elías Piña and 2 in San Francisco de Macorís.

ECOSYSTEM ALTERATION

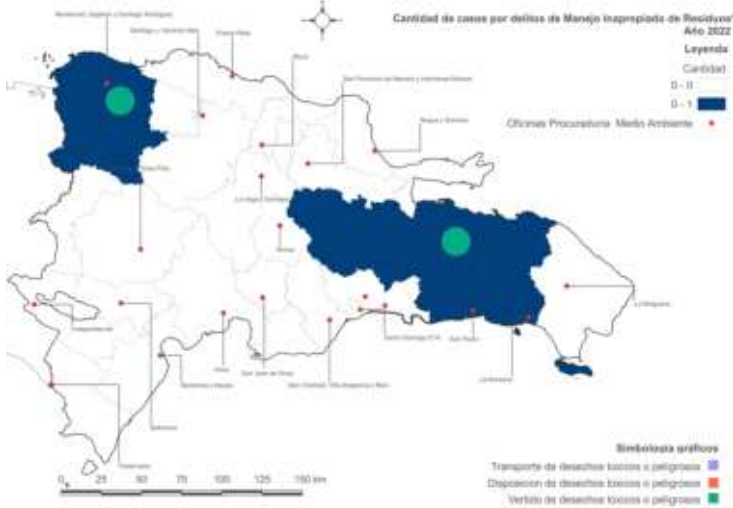


The largest number of ecosystem alteration crimes are concentrated in the cutting and/or destruction of trees, occurring in 17 prosecutor's offices. Those with the greatest number of records are: San Juan de la Maguana and Elías Piña (43), San Cristóbal, Villa Altagracia and Bani (24), Pedernales (20), Bonao (19), La Vega and Constanza (19).

12 prosecutor's offices report crimes of extraction of aggregates from the earth's crust, predominating: San Cristóbal, Villa Altagracia and Bani (23); Bonao (10); La Vega and Constanza (9).

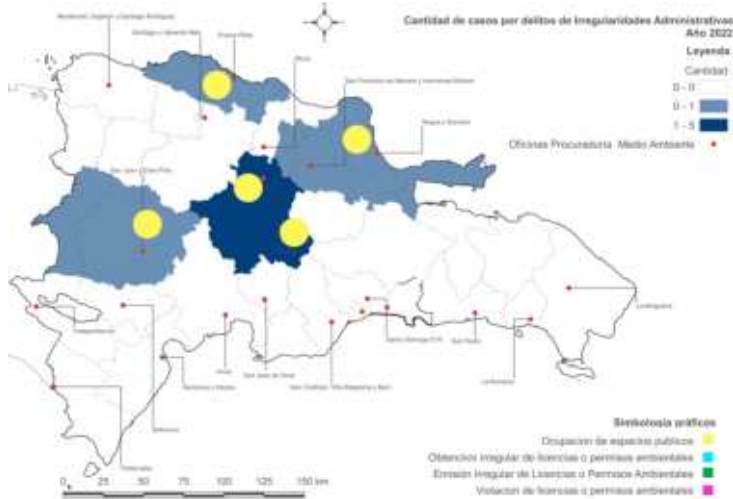
Construction in the maritime strip stands out in particular this year with reports in: San Francisco de Macorís (2), Puerto Plata (2), Santo Domingo DN (2), Santiago and Valverde (1).

IMPROPER WASTE MANAGEMENT



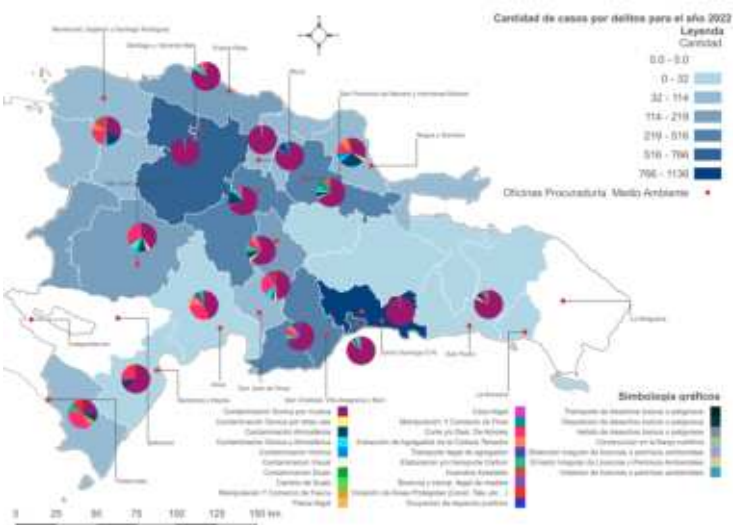
The image shows that for the category of inappropriate waste management, 1 case was reported in the following prosecutor's offices: Montecristi, Dajabón and Santiago Rodríguez; La Romana and El Seibo.

ADMINISTRATIVE IRREGULARITIES



In crimes due to administrative irregularities for this year, occupation in public spaces has been reported in the following places: Bonao (5); La Vega and Constanza (5); San Francisco de Macorís (1); Puerto Plata (1); Nagua and Samaná (1); San Juan and Elías Piña (1); Mirabal Sisters(1).

SUMMARY OF CASES BY CRIME 2022



In 2022, a total of 4,981 environmental crimes were consolidated, of which 90% correspond to environmental pollution. 80% of all crimes recorded in this period are classified as noise pollution. Being 20% distributed in the other 25 subcategories of environmental crimes analyzed in this report. As a result, 3,923 cases were closed, resulting in 1,469 Conciliations, 46 Sentences and 206 Incarcerations.

Bahoruco, Independencia and La Altagracia did not present any cases of environmental crimes for the year 2022, while Moca only presented reports of noise pollution.

3.6. Synthesis summary 2019-2022

During the 4 years analyzed in this report, 31,922 environmental crimes were reported, of which 91.9% correspond to the pollution category.

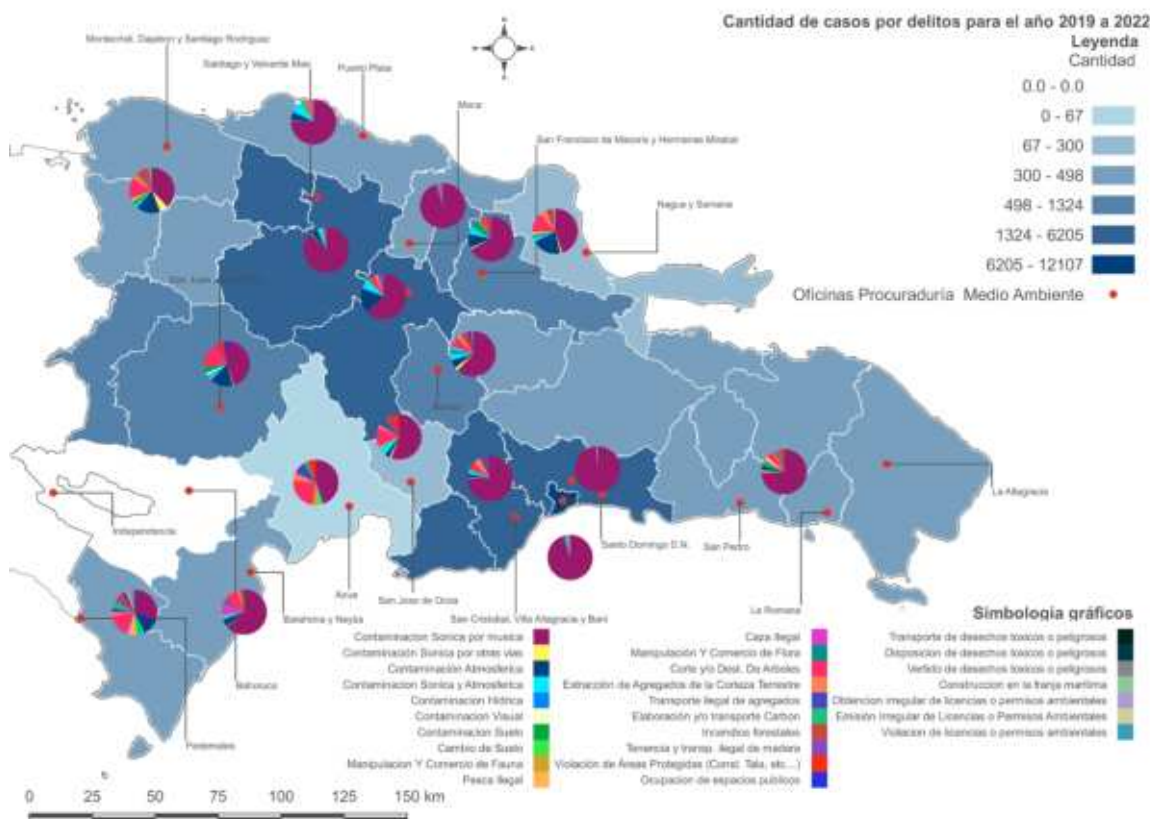
83% of the total cases correspond to the subcategory of noise pollution, which reflects some public policy, conscious or not, that encourages the reporting of this pollution. The remaining 17% is distributed across 25 subcategories of environmental crimes, which include other environmental pollution subcategories such as water and soil pollution.

Alteration to ecosystems follows with 7.3% of reported crimes normally focused on cutting or destroying trees. On the other hand, inappropriate waste management accounts for 0.1% of cases and the remaining 0.6% for administrative irregularities. In this last category, Pedernales has reported up to a total of 27 irregularities due to violation, obtaining or irregular issuance of environmental licenses or permits, although no report is presented for the year 2022.

For the same period, 6,415 sentences issued are shown, with a peak of 6,328 sentences in 2021.

The prosecutor's offices that report fewer incidences of crimes are; Bahoruco and Independencia with zero cases, followed by Azua presenting 67 reports, mostly due to noise pollution. Moca should also be considered, which, although it reports 483 crimes, 467 are due to noise pollution.

At the other extreme, reporting large amounts of crimes during the four years analyzed and distributed equally among the four established categories are the following; Santo Domingo DN (12,107); Santo Domingo (6,205); La Vega and Constanza (2343); Santiago and Valverde Mao (2,216); San Cristóbal, Villa Altagracia and Bani (2204); San Francisco de Macorís and Hermanas Mirabal (1324); San Juan and Elías Piña (1237).



Source: Ministry of Environment and Natural Resources of the Dominican Republic. For more detailed information please visit MIMARENA's web page <https://ambiente.gob.do/informacion-ambiental/>

3.7. Risk factors for administrative corruption in the system of monitoring, surveillance, investigation, prosecution and adjudication of environmental crimes.

This section analyzes some factors that affect the risk of administrative corruption in the system of monitoring, surveillance, investigation, prosecution and adjudication of environmental crimes in the Dominican Republic. Well, factors are "elements or causes that act together with others" (see RAE) and can be a risk for administrative corruption. According to the RAE, risk is understood as "contingency or proximity of damage." On one hand, there is the possibility or probability that such damage could occur. And, on the other hand, that damage that can occur can be near or imminent.

In that same sense, both the World Bank and the United Nations Organization on Drugs and Crime (UNODC) add a variety of factors to the cause, such as the lack of transparency and controls.

Each definition is framed both in probability and in the factors that facilitate it and the existing contexts. Both the action or omission, improper use of power and obtaining a particular benefit. Its impact is significant, from the economic point of view, to the collapse of systems and discontent in public institutions.

The in-depth interviews carried out with state actors, experts in environmental protection, representatives of civil society as well as community actors, have shown that there are interconnected factors, such as risk elements, so that there is impunity with respect to environmental crimes, which could lead to administrative corruption on the part of the State, not only through action but also through omission.

The risk of administrative corruption involves action or omission in line with institutional purposes, where people who have a position of power can infringe or omit information or an action related to the processes.

The Organization for Economic Cooperation and Development (OECD) defines corruption risk as the probability that an act of corruption could occur in a given environment. It can be measured in terms of the probability that an act of corruption will occur, as well as the severity of the consequences of that act. In every risk there are levels of exposure and these are the existing breaches that can be mitigated based on the origin of the risk.

Some of these identified risk factors are the following:

3.7.1. POOR MONITORING SYSTEM

Limited capacity of environmental personnel

Both people from civil society and the State consulted affirm that the personnel who work in the environment have limited capacity. This limitation goes in several ways. On one hand, the personnel located in the territories with the role of following up on environmental complaints is scarce, both in the Ministry of the Environment and in the Attorney General's Office. On the other hand, these personnel may have knowledge in the legal area, but limited skills in the environmental area, therefore, less technical expertise in the area of analysis, which can lead to being unaware that crimes are being committed and that the environment is being damaged.

"I believe that among the main challenges is the issue of continuing to train provincial executives in environmental legislation, we would say continue strengthening the ministry team, both at the local level and at the headquarters level, very often there is the intention to respond to all complaints but many times we do not have the capacity as I said...because there is not enough equipment, many times because there are not enough resources and many times it is not because there is lack resources...". State representative.

"One of the main challenges that the environment has is to have an education, trained personnel, there are many people, well, first, have enough personnel and personnel who are trained, because it is the same as what we are talking about with the issue of the police, that is, who prevents crime, you see a police officer and he prevents crime, now if you do not see an environmental officer in the territory, what crime is going to be prevented, and if you have an environmental crime and you do not know what an environmental crime is or what it could be, you could pass by it and you don't know it, so for that you have to have trained people, that is one of the great challenges that the Ministry has..." International Organization.

On the other hand, a representative of civil society indicates on this issue

One of the challenges that the Environmental Prosecutor's Office has is "Training the people who are going to work there. Train, how is it possible that the Attorney General's Office has very good lawyers, but does not have a technician in environmental matters to be able to provide technical expertise. You have to trust the expertise of others. That is a training that those lawyers need there, they need an

operational technical staff so that in each case that technical staff can guide them on what does and does not proceed according to the law, although they know the law... but they cannot provide technical expertise that "they need." Civil society representative.

Therefore, the limited technical capacity in environmental matters becomes a risk not only for crimes to be committed but also for acts of administrative corruption in environmental matters.

Technological platform in the making

Although recently the Ministry of Environment and Natural Resources has made progress in information and communication technologies (ICTs), it is also true that there is a lack, at a comprehensive level, of a computer system between this Ministry and the Attorney General's Office to monitor to cases of environmental crimes. This makes it difficult to update and monitor environmental violations in real time.

Currently the technological platform is in its infancy. State representatives indicate:

"Yes, right now a new platform is being created, there is a pilot plan that is being generated in several, in three provinces and that new platform is going to have an app that you will be able to make the complaint directly from your cell phone and point map wherever the complaint is from, and there will also be a page that will be inside, that is, there will be a link, that will link you to the application within the ministry's us page, which you will also be able to make the report out there." State Representative

"...one of the challenges we have institutionally, which is the technological modernization of the entire public mystery, but I am only going to talk to you about the environmental attorney's office, what we currently do is yes, we have a database but it is a database of data, so to speak, that is made by ourselves, right, with a program called Excel and there we have a specific detail of where the complaint is, who makes it, the area right, the criminal type as well and a detailed description of the object, that is, if we have it and the information every time it is requested we have it through access to public information we can provide it, obviously filtering what can be given and what cannot." State Representative





Slowness and potential impunity in processes

On the one hand, it is due to the absence of a rapid response protocol of an institutional nature.

"...establish rapid response mechanisms or protocols...when there is an occupation within the protected area, there are many... aspects that intervene mainly with the issue of private property, with the issue of whether it is a family home and then there are minors living there." in that home or there are illegal immigrants, that is, it is generated, it becomes a problem so complex that there are no protocols that allow us within that complexity that the environment can apply a rapid response to, we would say, remove the infrastructure... the technician... prepares a report, that report has to be seen by the superior and then the other, and then the other takes it to the headquarters and then from the headquarters another survey is carried out and then involve all the actors, so it seems that long periods are generated for when it is necessary to generate at the moment, that a measure has to be executed, and it is not, let's say, popular, in part because it involves the decisions of many people and sometimes of several institutions...". State Representative.

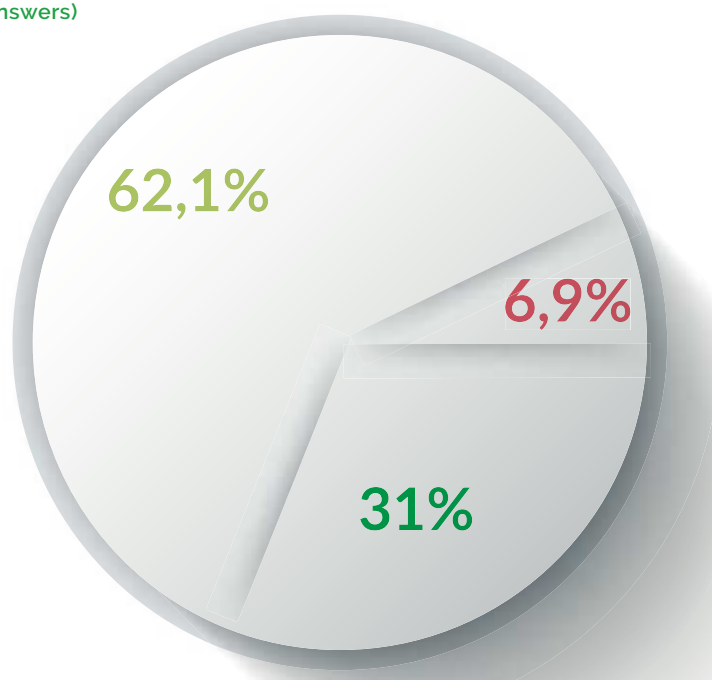
Law 64-00 indicates that "Every person or association of citizens has active procedural legitimacy to state and complain about any fact, action, factor, process, or the omission or obstruction, that has caused, is causing or may cause harm." degradation, impairment, contamination and/or deterioration of the environment and natural resources (see article 178). Now, although the person or institution can file a complaint, it cannot make this administrative process more agile. As indicated by a representative of civil society:

"...we have filed more than twenty complaints for environmental crimes. What has been the problem with those complaints and those complaints? That they put it to sleep in the Attorney General's Office for the defense of the environment, many of them put it to sleep, that is, they do not give it any action and in fact there are cases that are 3 years old, 5 years old, and they do not say anything, nor do they file it, nor do they do anything with them, that is, because if they file it you have a means to object to that file, but if they do nothing and you ask the investigating judge to order that... An incredible thing with impunity and that is clear, that impunity is corruption." Representative of civil society.

Although according to Article 181 of Law 64-00, "The prosecutor, for the defense of the environment and natural resources of the corresponding jurisdiction, acting as judge of the complaint, must, if he considers that the case has signs of seriousness, expedite, ex officio or in response to the complaints, denounces or referrals provided for, in this law, within a period of no more than three (3) business days..."

As indicated by the survey carried out and the in-depth interviews, this may be due to the fact that the environmental issue has not been a priority for the State. That is why it is among one of the main challenges.

17. What is the main challenge that the Dominican Republic has in terms of monitoring and prosecuting environmental crimes? Choose one (29 answers)



● POLITICAL WILL ON THE PART OF THE STATE ● PREVENTION AND EDUCATION OF THE PEOPLE ● A COMPLEX LEGAL SYSTEM

Of the total of 29 responses, 62.1% understand that it is necessary to make the political will of the State visible in this matter. The low budget allocated to the Environment may be an indicator of this situation

Low budget allocated to the instances

As indicated by a representative of civil society, arguing that the budget allocation for the environment is very low:

"The regulations must be reviewed, the processes must be operationalized, in order to be able, for the same reason with the national parks, you don't have, there aren't enough park rangers, they don't have enough resources, they don't even have boots or a machete, which it is the most basic or even a mule to move around. The provincial manager previous to this one now, got one because he ask for it." Representative

Coordination between the different instances

Better coordination is necessary between state agencies, as well as local government in relation to environmental permits/licenses. There are inter-institutional tables to address issues and cases of environmental crimes both at the national and provincial levels. However, in the interviews, the need for coordination prior to issuing an environmental license, was evident.

"For example, in the case of tourist destinations there must be a closer, coherent and consistent relationship between the Ministry of Tourism and the Ministry of the Environment. Because, although they are side by side, they do not speak to each other, and they have completely different work policies.... Or environment. Gives a permit without having consulted with the local government, with the municipality, and vice versa, the municipality gives the permit and neither of the other two finds out, then there would have to be a better working relationship with a more comprehensive vision." Civil Society Representative.

"I believe that these three institutions, especially for areas in tourist destinations, would have to be in the same page, eh, institutions with mind, tourism and local mayors" Civil Society Representative.

3.7.2. DISTANCE BETWEEN CITIZENS, CIVIL SOCIETY ORGANIZATIONS AND AUTHORITIES

Little training of citizens on environmental issues

The limited training that state representatives have in environmental matters is also one of the limitations that citizens have: little knowledge about environmental crimes. It will probably be necessary to include the topic of protection of natural resources in the curricular offering of the elementary school, high school and in the university education system; the conservation of natural resources, such as forests, rivers, lakes and mangroves, is essential to guarantee sustainability. An integration of the population is required to achieve adequate management of these resources, including the protection of protected areas and the implementation of sustainable management practices. It is important to raise awareness about the importance of sustainability, encourage the active participation of the population and promote behavioral changes towards more sustainable practices.

The surveys applied to civil society organizations in the section on the management of environmental laws reveal a lack of knowledge and awareness about the processes and systems related to environmental crimes, only 10.3% of the institutions surveyed claim to have complete knowledge, which indicates a large gap in preparation and understanding of this crucial topic.

Furthermore, the fact that 69.4% of institutions only have partial knowledge or have heard about the processes and systems for protection against environmental crimes suggests that greater training in environmental laws is necessary to address this problem, although there is a level of awareness and generalized sensitization about environmental crimes.

Among the results regarding knowledge of laws aimed at environmental protection and enforcement, 83% mentioned law 64-00, while the remaining 16.7% declared that they did not know any law related to this topic. Furthermore, all the people who responded to the survey for their institutions mentioned the Ministry of the Environment as the entity in charge of enforcing these mandates. Other institutions such as the Environment Attorney's Office and the SENPA were also mentioned.



Perception of partiality of the authorities towards the business sector

Now, civil society organizations do not believe in the authorities: the processes are slow and they have the perception that there are projects between business and government that have already been previously agreed upon.

"stop thinking about business first, and take seriously the commitment to save the environment"

Fear of retaliation: the lives of leaders at risk

One of the main challenges in reporting environmental crimes is the fear of retaliation. Many people who witness these crimes may be afraid to report them due to possible retaliation from the perpetrators. Therefore, it is important that there are, safe and confidential mechanisms, for reporting these crimes, ensuring the protection of whistleblowers.

3.7.3. ABSENCE OF A REAL REGIME OF CONSEQUENCES

Although the legal apparatus is broad and complex, in practice there is no real regime of consequences. An environmental leader indicates that provincial directorates have little decision-making power when fining violators, since they know that what they do will have no real consequences, and therefore they will continue with their practices. He tells the case of an offender who told him, mocking the law:

"...I am laughing at the system and at you... look... here is the money to pay the next fine... if you want to put it in advance today, put it to me... but they are saved here [referring to money] for me to pay it... Yes, of course, you see all those pine trees that are there. I'm going to cut them. I am going to make two million pesos with them and you are going to fine me fifty thousand pesos, here is the money for the fine already."

Representative of civil society.



The results of the survey showed that the perception of the functionality of laws and regulations in environmental policies is low.

A total of 13 institutions, representing 44%, stated that current environmental policies are partially effective. Additionally, 3 institutions (10.3%) indicated that they do not have sufficient knowledge about these policies. On the other hand, 2 institutions (6.9%) were unsure when they were giving a response and 6 people (20.7%) stated that environmental policies are not effective.

"Prosecute all those involved in environmental crimes regardless of social class and that there are always consequences for those convicted of environmental crimes."

For this reason, one of the people surveyed indicated:

"That the State initiate an efficient policy to sanction environmental violators and consequently, we can see that those who are guilty of damaging or causing deterioration to our planet are really punished...so that the world has a healthy living environment taking advantage of the natural resources."

Type of crimes and Profile of the complainants and people who commit crimes against the environment

The survey shows that the highest percentage of environmental complaints made by organizations is concentrated in protected areas, representing 35% of the total. In contrast, air and water pollution only constitutes 5% of the complaints. On the other hand, complaints related to forest fires, mining and industry remain at an estimated percentage of 10%. These data are related to data from the Environmental Prosecutor's Office, which indicates that the majority of reported cases of noise pollution are from individuals and are generally anonymous.

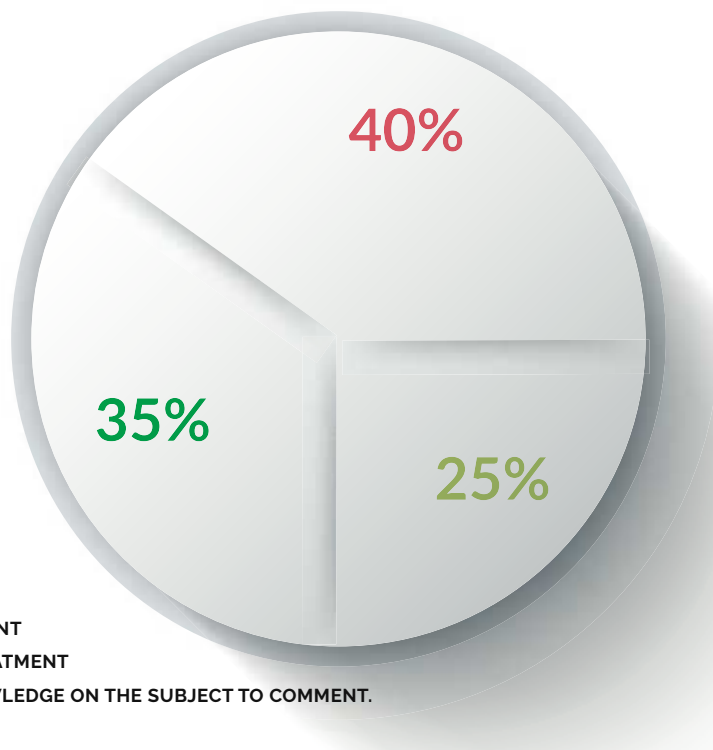
According to the survey, the highest percentage of these complaints has been made by community organizations and neighborhood associations, representing 30% each. Other unidentified entities have also made 30% of the complaints. To a lesser extent, local NGOs have filed 25% of complaints, while individual citizens represent 15%. It is important to note that this estimate does not include journalists and government institutions. This situation contrasts with the information available on social media and State data sources. Regarding the profile of those who commit environmental crimes, the majority tend to be companies or individuals with a lot of power or money, say the people who were interviewed. In protected areas, for survival reasons, there are cases of individual people with very little economic resources committing environmental crimes.

The gender issue

Gender Perception

The results of the survey show that there is a significant percentage (40%) of people surveyed who say they do not have enough knowledge to confirm whether complaints are registered without discriminatory effects due to gender (LGTBIQ community), economic status or disability.

16. Do you consider that complaints are registered without discriminating gender, condition economic, disability or if it represents groups of people from the LGBTIQ community? (20 answers)



- HE IS GIVEN EQUAL TREATMENT
- THERE IS NO DIFFERENT TREATMENT
- I DON'T HAVE ENOUGH KNOWLEDGE ON THE SUBJECT TO COMMENT.

Furthermore, the fact that 35% of people surveyed report having experienced or been offered different treatment in these cases, indicates that there are still important challenges in terms of equality and non-discrimination. However, it is encouraging to see that the remaining 25% claimed to have offered equal treatment.

In the interviews they stated that the perpetrators of environmental crimes are almost always men.

At the level of change in environmental matters, civil society organizations indicate that they see uniformity between men and women, that in fact, some organizations assert a greater proportion of young women who are being trained and who are activists in favor of the environmental protection.

3.8. New environmental issues

Some of the most notable challenges regarding sustainability in the Dominican Republic are the following:

Climate change, especially due to increased temperatures, extreme weather events and rising sea levels. This affects both natural ecosystems and human communities, especially those located in coastal areas.

The proper management of solid waste continues to be a challenge in the country, despite the existence of the Solid Waste Law (Law No. 225-00). There is a need to improve the collection, separation, recycling and final disposal of waste, as well as to reduce waste generation and promote the circular economy.

In the Dominican Republic there is a significant dependence on non-renewable energy sources. The challenge lies in increasing the participation of clean energies in the energy matrix and reducing dependence on fossil fuels.

Last but not least, plan urban growth and the expansion of cities to make efficient use of land, develop sustainable transportation and ensure air quality. Review already established communities or neighborhoods to reorganize them and optimize the use of resources at an economic level, but with a cross-section of environmental protection in a sustainable way. Within urban growth there is also the construction of new residential structures, the correct management of storm drainage and the organization of land traffic. This at the national, regional, provincial, municipal level, in the municipal districts, in the sections and territories.

3.9. Gaps in the political, legal and institutional framework

The country faces challenges typical of so-called “developing” countries, where institutions have not reached the maximum potential of their functionality. At the national level, transparency and crime management involve actions and a robust legal framework.

After consulting the Climate Change Adaptation Plan and reports on international transparency, the following stands out. Among the specific gaps is the weakness of law enforcement, we have solid laws, but lack of application. The lack of institutional coordination, articulation and collaboration between institutions would enhance the effective management of crimes. The lack of transparency and access to information is vital for accountability, it is a constant limitation and evidenced in the present research process, where institutions currently do not have databases available to citizens, nor mechanisms efficient to follow up on their complaints.

This limitation also affects citizen participation due to the few mechanisms and spaces available. The gap between limited environmental education and public awareness is important in the environmental knowledge of the population when it comes to mobilizing for environmental causes. In this sense, this gap is significant, because limited knowledge on environmental issues indicates ignorance of the value and meaning of the impact of the environment on people's lives.

On the other hand, the lack of human, technical and financial resources make it very difficult to fulfill functions and respond in a timely or effective manner. Likewise, citizen and social participation, the commitment of the productive sectors and society with the environment is essential, since on this way they will be motivated to report and avoid practices against the environment.

Another important gap is the misalignment of the amounts of fines for environmental crimes, which are low, compared to the economic benefits derived from activities that are harmful to the environment. For example, the cost associated with starting a labor without an environmental permit is lower than starting it, which is why even the productive sectors include it in their budgets, in case they are surprised in the act.

Another important gap has to do with the perception of corruption in the Dominican Republic, taking into account a broader framework, beyond the environmental one. According to the 2022 Corruption Index Report⁵ prepared by Transparency International at a global level, although the Dominican Republic has improved slightly compared to the last year, it still maintains its rank of 123, out of 180 countries evaluated. Although if you look at the trend, the country score has not changed significantly from 2012 to 2022. The perception of corruption at a general level directly affects the management of administrative corruption in environmental issues and crimes. So, working within this global framework will be crucial.

⁵ <https://www.transparency.org/en/cpi/2022/index/dom>



IV. RECOMMENDATIONS AND CONCLUSIONS

To reduce the risk of administrative corruption in the system of monitoring, surveillance, prosecution and adjudication of environmental crimes, this study has shown that the country needs to improve in the following areas.

1. Establishment of a robust inter-institutional coordination system. Several institutions are involved when a natural or legal person file a complaint in the system, and as the state and civil society representatives indicate, the response is very slow and in many cases the request remains stuck somewhere in the process. For this reason, a fast, more robust system is needed, with greater transparency and at the same time with confidentiality, so that complaints can be processed and closed appropriately.

2. Digital platform. Although the platforms for registering and handling complaints of environmental crimes have improved in recent years, there is still a need to create an inter-institutional digital platform focused directly on these purposes.

3. Improve the role of the Environmental Prosecutor's Office. According to the perceptions and experience of representatives of civil society, the Environmental Prosecutor's Office, together with the Ministry of the Environment, should become more known as an entity for investigating and prosecuting environmental crimes. These actors recommend that it can have a more active role.

Environmental prosecutors, largely with training in the legal area, need to have expertise on environmental matters, or work more closely with the technical staff of the Ministry of the Environment.

92% of the complaints reported during the 4 years analyzed correspond to atmospheric pollution, of which 83% is noise pollution, which reflects some public policy, conscious or not, that encourages the reporting of this pollution. Due to the issue of the culture of peace, this issue must be taken into account because it can lead to tragedies in our neighborhoods and communities. The issue of confidentiality of reports in this matter, as in any other matter, is of utmost importance.

In the period 2019-2022, the Environmental Prosecutor's Office received 31,922 complaints of environmental crimes for which 6,415 sentences were issued. In the organization of the data received, it is worth researching into which subcategories have been processed and thus ensure that the sentences issued do not focus only on the subcategory that has the greatest percentage weight. Likewise, it is important that the Environmental Prosecutor's Office establishes comparable variables between the different reports, since in some reports information that is absent in other reports per year appears, making it difficult to systematize the information data.

4. Review the system of consequences for environmental crimes. Both for guilty sentences (bails are percentage-wise insignificant with respect to the business that is harmful to the environment), and for possible offenders, especially for business megaprojects.

5. Improve the budget allocated to the Ministry of the Environment. It is the consensus of authorities and civil society that this Ministry has a low budget.

6. Improve environmental governance. The articulated work between the State and civil society is essential for these purposes. It is urgent to train environmental technical personnel on environmental issues and/or improve their selection. On the other hand, although civil society has played a predominant and indisputable role in environmental protection, there is still a need for more training in environmental protection, environmental crimes and corruption, and greater and better management of the laws.

7. Updated curricular design of pre-university and university education. The Dominican curricular design includes topics such as environmental education, environmental protection and natural resource management. Greater efforts and initiatives are still necessary to train future generations and comply with the Dominican Constitution, which indicates that "the State must guarantee the protection of the environment and natural resources for present and future generations." All this to think about the future sustainability of the environment.

8. Establish risk maps of administrative corruption in environmental matters by state institution. This will serve to ensure that all personnel of State institutions are aware of the risks of administrative corruption, and at the same time are proactive in reducing them.



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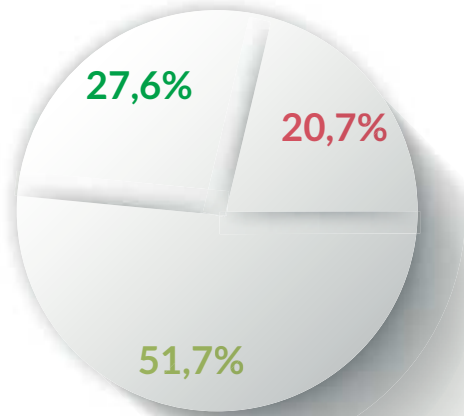
DEVELOPMENT OF OPERATIONAL EVOLUTION BY THEMATIC AREA, (2022)



ANNEXES

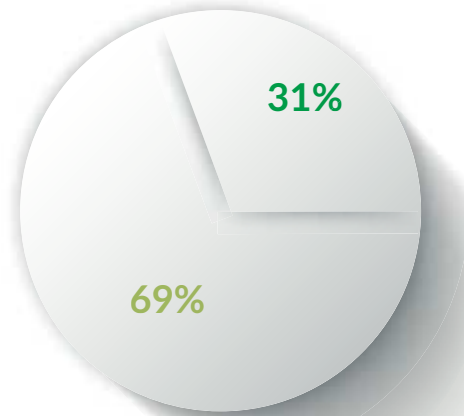
ENVIRONMENTAL CRIME SURVEY

2. Position of the person completing the survey (29 answers)



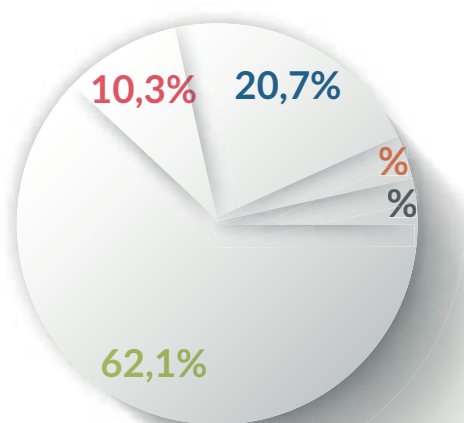
- EXECUTIVE
- TECHNICAL STAFF
- MEMBER

3. Sex of the person completing the survey (29 answers)



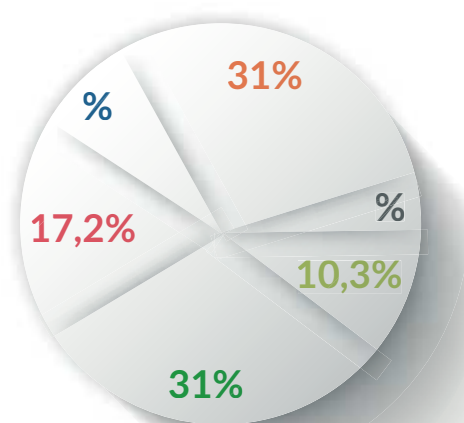
- MAN
- WOMAN
- BINARY
- NONBINARY

4. The organization/institution you represent is (29 answers)



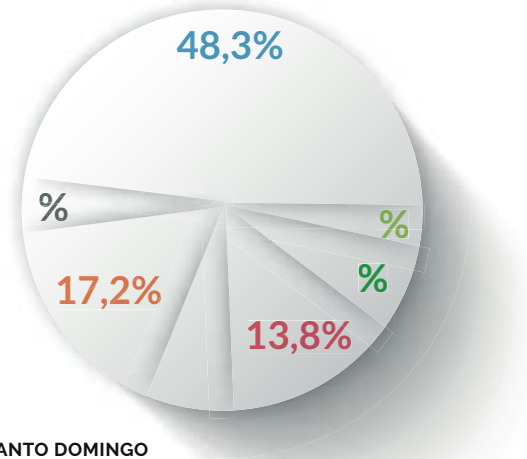
- LOCAL ONG
- INTERNATIONAL NGO
- MULTILATERAL ORGANIZATION
- COMMUNITY ORGANIZATION
- NEIGHBORHOOD COMMUNITY
- RELIGIOUS ORGANIZATION

5. Location of the institution/organization (29 answers)



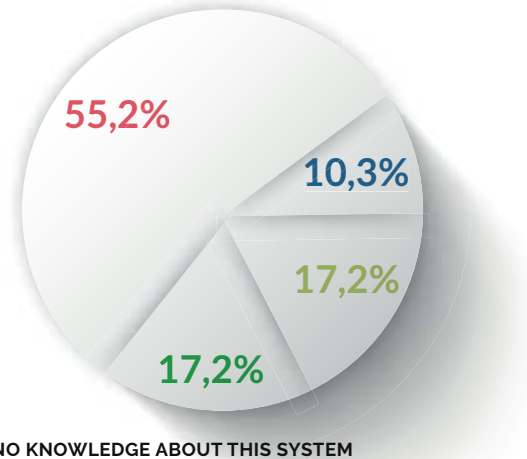
- GRAN SANTO DOMINGO
- DISTRITO NACIONAL
- SOUTHWEST
- SOUTHEAST
- CIBAO
- BORDER LINE

6. Geographic work areas of your institution/organization (29 answers)



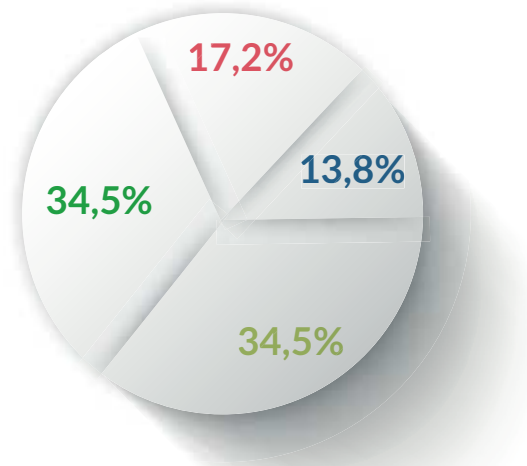
- GRAN SANTO DOMINGO
- NATIONAL DISTRICT
- SOUTHWEST
- SOUTHEAST
- CIBAO
- NORTHERN BORDER LINE
- AT THE NATIONAL LEVEL

7. How much do you know about the country's environmental crime monitoring system? (29 answers)



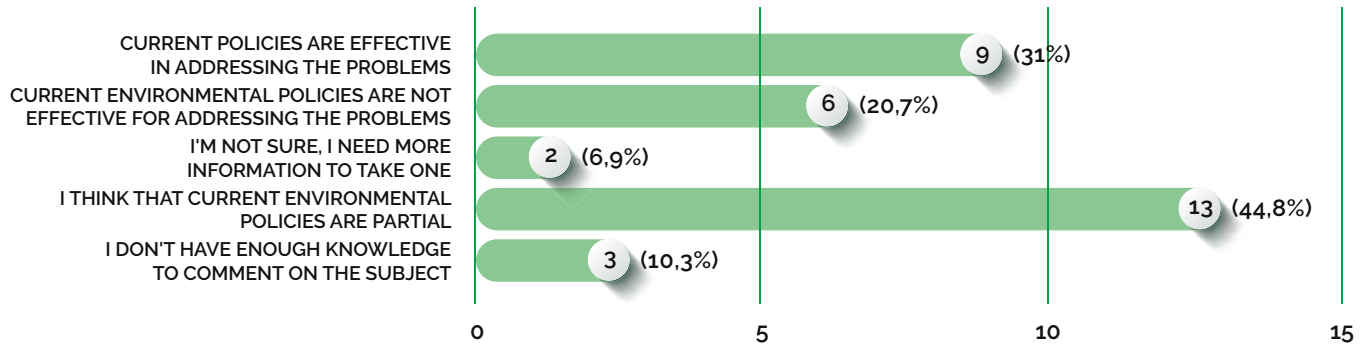
- I HAVE NO KNOWLEDGE ABOUT THIS SYSTEM
- I HAVE HEARD ABOUT THE SYSTEM, BUT I DON'T KNOW HOW IT WORKS
- I HAVE SOME KNOWLEDGE ABOUT THE SYSTEM AND ITS IMPORTANCE
- I AM FULLY INFORMED ABOUT THE SYSTEM

8. According to your mastery of the laws regarding environmental protection and prosecution of environmental corruption, how many do you currently work with? (29 answers)

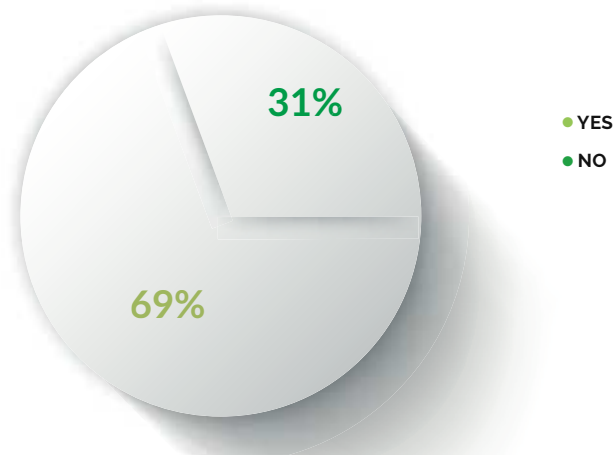


- NONE
- AT LEAST TWO
- 3 OR MORE
- WITH ALL

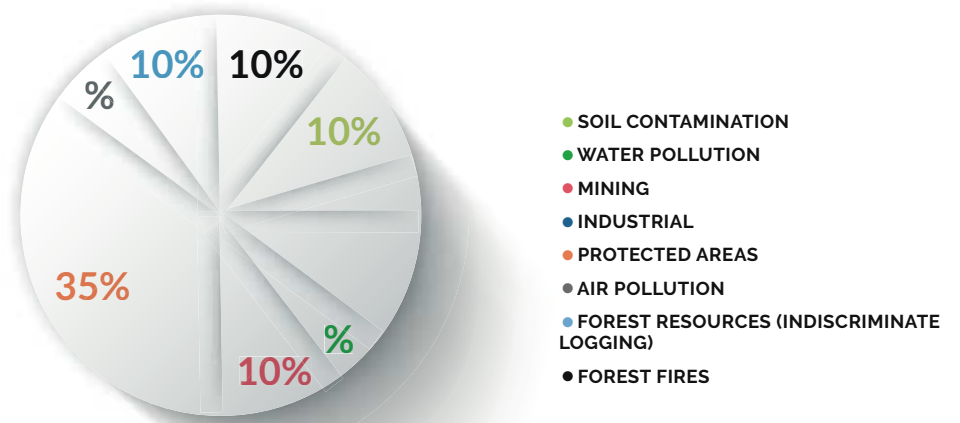
12. Do you consider that current environmental policies, including laws and regulations, are effective in addressing environmental problems? Select all answers that apply (29 answers)



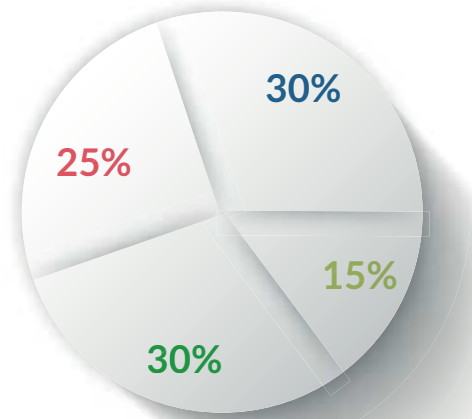
13. From your institution - organization you have accompanied complaints of environmental crimes (29 answers)



14. The environmental complaints have been about (20 answer)s

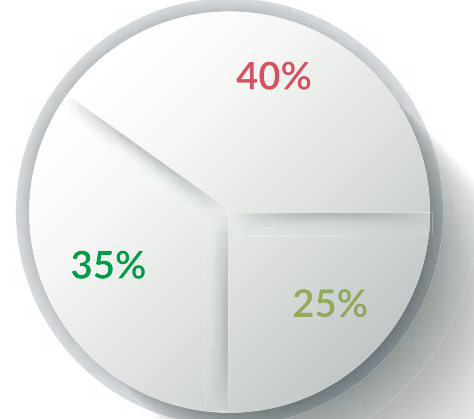


15. What was the profile of the complainant? (20 answers)



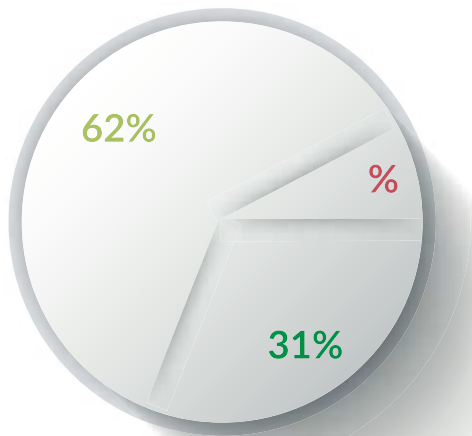
- INDIVIDUAL CITIZEN
- COMMUNITY ORGANIZATION, NEIGHBORHOOD ASSOCIATION
- LOCAL ONG
- JOURNALIST, COMMUNICATOR
- STATE INSTITUTION
- OTHER

16. Do you consider that complaints are registered without discriminating against gender, economic condition, disability or whether they represent groups of people from the LGBTIQ community?? (20 answers)



- IT'S GIVEN EQUAL TREATMENT
- NO, THERE IS A DIFFERENT TREATMENT
- I DON'T HAVE ENOUGH KNOWLEDGE ON THE SUBJECT TO COMMENT.

17. What is the main challenge that the Dominican Republic has in terms of monitoring and prosecuting environmental crimes? Choose one. (29 answers)



- PREVENTION AND EDUCATION TO THE POPULATION
- POLITICAL WILL ON THE PART OF THE STATE
- A COMPLEX LEGAL SYSTEM





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