



SUMMARY OF CASE LAW ON WASTE PRODUCER LIABILITY

CHILE

We were unable to locate a court case involving waste producer liability in Chile. The statutory provisions are set out below.

Summary of the National Law

Chile, like much for South America, does not provide for specific generator liability in its waste laws. Rather, Chile uses a general environmental damage statute in discussions of the legal basis for holding waste generator or producer liable. The [General Basis for Environmental Law, No. 19300 of 1994](#) provides for liability for environmental damage in Title 3, articles 51 and 52:

Article 51.- Anyone who is guilty of or willfully causes environmental damage will respond to it in accordance with this law. However, the rules on liability for damage to the environment contained in special laws shall prevail over those of this law. Notwithstanding the foregoing, in the provisions not provided for by this law or by special laws, the provisions of Title XXXV of Book IV of the Civil Code shall apply.

Article 52.- The responsibility of the author of environmental damage is legally presumed, if there is a violation of environmental quality standards, emission standards, prevention or decontamination plans, special regulations for cases of environmental emergency or to the rules on environmental protection, preservation or conservation, established in this law or in other legal or regulatory provisions. However, there will only be compensation, in this event, if a cause-to-effect relationship between the infraction and the damage occurred is proven.

The more recent [Framework Law for Waste Management, Extended Responsibility of the Producer and Promotion of Recycling of 2016](#), Law No. 20-920, focuses its new provisions mostly on extended producer liability for products (patterned after the EU WEEE Directive). However, the new law does include some general language that may be used in future administrative and judicial actions:

Article 2º.- Principles. The principles that inspire this law are the following:

a) The polluter pays: the generator of a waste is responsible for it, as well as internalizing the costs and negative externalities associated with its management.

This provision appears to not have been tested in court in the context of waste producer liability, but it may well end up in such cases. Coupled with the general provisions on environmental damage, failure to provide for full regulatory compliance including final disposition of the waste could create liability [regulatory violations are per se liability].

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