Municipal Competency and the Environmental Licensing: the Complementary Law n. 140/2011 and the Forestry Resources

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Abstract

Environmental licensing is the administrative systematics related to the "natural resources utilization by activities and businesses permission". The regulatory power of this kind of competency (a large quantity of normative instruments like Resolutions for example), considering specially the forestry resources, is delegated to the Union, States and Municipalities. This type of competency is also called "material, administrative or executive competency under the environmental aspects point of view". Therefore and on submission to the command of the single paragraph, article 23, of the Brazilian Constitution is that the Complementary Law n. 140 was created in December, 08, 2011. This law gives the mechanisms of the Union, States and Municipalities cooperation about the exercise of the administrative actions from the usual competency exercise related to the “natural landscape protection, environmental protection, control of all kinds of pollution and forestry, animal and vegetal preservation”. The goal of this work is the study of the Complementary Law n. 140/2011 vis-à-vis the specific municipality competency for the forestry resources protection. For this purpose this work intends to use, about the methodological aspects, the Deductive Method (from the general to the specific). So, this work intends a global observation of the Complementary Law n. 140/2011 and the investigation process of the Municipal Public Power competency (mainly of the forestry resources utilization perspective). This work also intends to use the speculative, comparative and logical methods in order to help this investigation. The technical instruments and the material were produced with data researches, professional and historic experiences, literature and other kinds of sources and the conceptual categories use. The main conclusion of this research is that the Complementary Law n. 140/2011 allows to the Municipalities the environmental questions management in their own territories. However, the municipal environmental licensing, in relation to the forestry resource specially, still needs of the Environmental State Council hearing or permission.

Keywords: Environmental license, Complementary Law n. 140/2011, Environmental Legislation, Municipal competency