

Number of Crimes Has Increased in Recent Years: **Mining Associations Warn of Rising Violence in Copper Cathode Thefts**

While criminals previously focused on extracting copper from trains, companies now report that they are entering mining sites to steal the metal.

**El Mercurio de Santiago. March 10, 2025.
By Catalina Muñoz-Kappes.**

The rise in thefts at mining sites targeting copper cathodes and the increasing violence used to commit these crimes have put the industry on high alert.

Jorge Riesco, president of the National Mining Society (Sonami), reports that industry members have recorded three copper cathode thefts at a single site and four at other mining operations over the past six months, in addition to a recent assault on a gold-producing site. "There is no doubt that since mid-2024, the situation has worsened," he states.

Similarly, Joaquín Villarino, executive president of the Mining Council, notes, "We are witnessing an increase in crimes at mining sites across the country." According to the association, the rise in thefts is concerning due to "the safety of our workers and the neighboring communities in the face of these violent incidents."

The alarm has been raised because, unlike previous years, criminals are now entering mining sites directly to steal copper cathodes.

"Looking back, we can see that there has also been an increase in the level of violence in these robberies. Previously, criminals focused on stealing copper cathodes while they were being transported, but lately, they have been entering mining sites armed, intimidating the workers on-site," explains Riesco.

From the Specialized Unit for Organized Crime and Drugs at the National Prosecutor's Office, officials report that copper cathode and concentrate thefts from trains increased steadily between 2015 and 2018—the first period analyzed in the 2024 Organized Crime Report—rising from just one recorded theft to 46.

Additionally, in a letter to the editor published in El Mercurio on February 25, Riesco warned that "even small-scale mining operations have suffered thefts of supplies and machinery." However, Enami responded to this newspaper, stating, "We have no evidence of the situation described by the president of the National Mining Society."

Higher Copper Prices

"In most cases, the goal is to smuggle copper out of the country to sell it at a better price. This is done through the export of copper scrap, a method used to integrate stolen metal into the formal market, which requires committing tax and customs crimes to succeed," explains the specialized unit. In this regard, the increase in copper thefts coincides with the rising price of the metal.

"There is a correlation between the increase in thefts and higher copper prices. This is because the rise in the metal's value makes it attractive for the illegal trade that has taken hold in parts of northern Chile," says Riesco. Copper prices have climbed from US\$2.49 per pound in 2015 to US\$4.28 per pound in 2024, according to Cochilco data. Over the past three years, copper prices have generally remained above US\$4 per pound.

However, Riesco argues that copper prices are not the sole factor driving crime. "I believe the bigger issue is that there is, in fact, impunity regarding these criminal acts, because today, effective investigative measures are not being implemented to dismantle the criminal networks," he states.

Investment in Security

The increase in violence has forced mining companies to take additional measures against thefts. Villarino notes that two years ago, the Mining Council created a Public Security Subcommittee, and "the recurrence of these incidents has led mining companies to significantly increase their investments in technologies and facilities to enhance their security, with a focus on prevention."

Additionally, companies have had to implement operational changes, such as "avoiding high-risk nighttime activities or conducting simultaneous operations to ensure product traceability." Similarly, Riesco states that mining companies have adopted measures to strengthen security at their sites.

"Company measures will always be aimed at protecting and ensuring the safety of people, their workers, and collaborators. They should not be forced to take risks to repel attackers, nor should they have to intervene in investigations and subsequent prosecutions—that is the role of the State, which, so far, has been very deficient in this regard," he asserts.

IMPUNITY

The industry claims that there is impunity surrounding these criminal acts.

Macroeconomic Volatility and Inflation Reemerge as Threats:

Executives See "Permitting Bureaucracy" as the Main Barrier to Sustainable Investments

Regulatory complexity is viewed more critically by executives in Chile than by their global counterparts, according to survey results.

**El Mercurio de Santiago. March 10, 2025.
EYN**

Regulatory complexity is one of the main barriers that top executives identify as an obstacle to advancing “climate-conscious investments,” according to the results of an opinion survey that explored the sustainable actions companies have adopted and the outlook they foresee for their businesses, among other topics.

According to the 45 CEOs who responded in Chile to the 28th Annual CEO Survey by consulting firm PwC, their companies are currently addressing both the opportunities and threats posed by climate change, among other challenges.

"Taking action to combat climate change is vital for business prosperity, and CEOs are increasingly familiar with climate-conscious investments," the study states. In Chile, 53% of top executives have made such investments in the past year, while 33% have not.

However, the long and complex process that companies must navigate to implement their investment projects has become a matter of public debate due to the negative impact caused by delays in obtaining permits for national development. The government is currently working on a series of initiatives to simplify the regulatory framework, often referred to as “permitting bureaucracy” (permisología).

PwC’s survey specifically asked about the challenges faced by climate-conscious investments, a concept that includes transitioning to energy-efficient operations, developing more environmentally friendly products and services, and implementing emissions-reduction technologies.

When asked about the factors that inhibited their company’s ability to launch such projects, the most widely agreed-upon response was regulatory complexity, including political changes and inconsistent local requirements. The critical stance of Chilean

executives stood out, with 43% citing this as a major issue—nearly double the 24% reported by their global counterparts in the survey (see chart).

Macroeconomic Volatility

In the business outlook section, most CEOs ranked macroeconomic volatility as the top threat, with 36% citing it as their primary concern. Similarly, inflation was ranked as the second biggest challenge at 33%. These results are consistent with last year's study and align with findings from other reports conducted by various consulting firms.

The report's authors note that optimism about Chile's economic growth has gradually returned among respondents after reaching its lowest point in 2023. "Today, 56% expect the gross domestic product (GDP) to grow in the next 12 months, compared to 31% who believe it will remain stable and 13% who foresee a decline," states the PwC report.

"In such a dynamic environment and a highly challenging economic context, the ability to anticipate change and adapt swiftly will be key to business competitiveness," says Renzo Corona, senior partner at PwC Chile, when commenting on the survey's conclusions.

Lithium: Company Sues the Ministry of Mining and Requests the Cancellation of Contracts for Indigenous Consultations

The Chilean firm Grupo Aurrera challenged the award won by Ditecsur to provide services in the context of the indigenous consultations being carried out by the Ministry of Mining. The lawsuit accuses a series of illegalities and arbitrariness, as the economic offer presented by Aurrera was lower than the winning bid.

Pulso, March 10, 2025

By Víctor Guillou

A lawsuit against the Subsecretariat of Mining was filed by the Chilean firm Grupo Aurrera, in the context of the indigenous consultations being conducted by the Ministry. The action is a challenge to the public tender award process, which was ultimately granted to the firm Ditecsur.

The lawsuit was filed in mid-February before the Public Procurement Tribunal, which accepted the case for review on Wednesday, February 26.

Specifically, the firm accuses a series of illegalities and arbitrary actions in the tender evaluation process, which was related to the provision of "comprehensive production services for the development of indigenous consultation processes related to the administrative measure concerning special operating concessions for lithium."

This service pertains to logistical processes associated with the consultation itself, including transportation and the proper arrangement of venues for meetings. However, they are not in charge of the actual indigenous consultation process, as this is managed by the Ministry of Mining. Additionally, these are annual tenders, and in this case, it refers to the 2025 process.

In its challenge, Aurrera states that it "presented a better economic offer than Ditecsur," and demands that "certain information submitted by Grupo Aurrera be re-evaluated, in order to assign the appropriate score based on its true merit, so that the tender is awarded, and the indigenous consultation process in question is carried out by the bidder that presented the best proposal."

The lawsuit is sponsored by journalist and business engineer Cristián Fernández Li, CEO of Grupo Aurrera, who is requesting the Public Procurement Tribunal "invalidate the award given to Ditecsur, and re-award the tender to my client, Grupo Aurrera."

In the case file, the firm attached the bid evaluation report, which reflects a higher score for the economic offers submitted by Aurrera. However, in the evaluation of previous experience, the firm received half of the maximum possible score. This despite Aurrera having provided such services during 2024 to the same Ministry.

"Grupo Aurrera has extensive experience in event production and logistical support in general, and also specifically in relation to indigenous consultations. This is why it presented and accredited four previous specific experiences in production and/or logistical support for indigenous consultations. However, due to the illegal and/or arbitrary evaluation of the documents presented by Grupo Aurrera by the evaluation committee, only one of them was validated," the company states in its lawsuit.

When consulted, the Subsecretariat of Mining said that it "has been notified of the lawsuit filed by the company Grupo Aurrera SpA before the Public Procurement Tribunal."

"Our agency is preparing its legal defense to demonstrate that there has been no flaw in the evaluation stage of the offers received, which complied with both the principle of strict adherence to the rules and the principle of equality of bidders. Therefore, the award of the tender is in accordance with the current legislation," they added.

The Subsecretariat of Mining also mentioned that, prior to the lawsuit, the firm "filed an administrative complaint directly with our Subsecretariat, which has not yet been resolved, and we are still within the time frame for this."

"This situation will be presented to the mentioned tribunal, as the legal regulations clearly state that if an interested party in an administrative procedure files an appeal, they cannot file the same claim before the courts while the public body has not resolved the complaint or the time frame for considering it dismissed has passed, which has not happened yet," they emphasized.

Finally, the Subsecretariat of Mining stated that they are already coordinating with the Council of Defence of the State to issue the required report and take the necessary actions to defend the fiscal interest.

It is worth remembering that the Ministry led by Aurora Williams is conducting a series of indigenous consultations for the awarding of Special Lithium Operation Contracts (CEOL). Most of these are related to the designation of prioritized areas for a variety of salt flat systems, so that private companies can develop productive projects to extract lithium from each deposit. However, consultations are also underway for projects led by Codelco and Enami.

Currently, indigenous consultations are underway in the Coipasa, Ascotán, Ollagüe, Agua Amarga, Quillagua Norte, Quillagua Este, and Quillagua Sur salt flats.

Four Countries Have Approved the Codelco-SQM Alliance, but China and the European Union Still Need to Approve It

In Chile, the approval from the National Economic Prosecutor's Office (FNE) and the authorizations from the Chilean Nuclear Energy Commission are still pending, while the potash offtake contract is under negotiation.

Diario Financiero, March 10, 2025
By Patricia Marchetti

The so-called "prerequisite conditions" that must be met for the entry into force of the Codelco-SQM partnership to jointly exploit lithium in the Salar de Atacama, "the crown jewel" of white mineral in Chile, are moving forward.

There are several aspects, and none of them are simple, ranging from the indigenous consultation process led by Corfo to the authorization of the National Economic Prosecutor's Office (FNE). But one, in particular, has been highlighted for its complexity, and it has quietly overcome several hurdles: the approval of the alliance by the competition authorities of seven countries.

And now, four have approved it. The agreement has already received the green light from the "Conselho Administrativo de Defesa Econômica" in Brazil, the "Korea Fair Trade Commission" in South Korea, the "Japan Fair Trade Commission" in Japan, and the "General Authority for Competition" in Saudi Arabia.

However, the agreement between the state-owned company and the mining company still requires approval from the European Commission and the "State Administration for Market Regulation" of the People's Republic of China. Chile also remains pending.

From Codelco, there is optimism, and they expect the foreign responses to arrive in April.

It is important to note that, according to the agreement, these authorizations are "legally mandatory to obtain or process in relation to the partnership."

As for approvals related to foreign investment consents and authorizations, these have already been obtained in Belgium, China, Italy, and Japan.

Formalization of Agreement in the Third Quarter

Codelco's Board Chairman, Máximo Pacheco, told DF that "this agreement has required, as can be seen, an immense amount of effort to sign documents and/or highly complex contracts and obtain authorizations, both at the national and international levels."

"We are focused on fulfilling all the prerequisite conditions established for forming the joint venture, as outlined in the partnership agreement," he added.

And while in January, he stated that compliance with the obligations was between 70% to 80%, he now gave a timeframe: "Our expectation is that we will formalize the agreement in the third quarter of 2025."

At that point, he said, "Codelco will have fulfilled its role as the State representative in the Salar de Atacama and will start delivering greater value to Chile, with its presence in the lithium business."

The copper company indicated that they are finalizing the name and brand of the new company for its subsequent registration at both international and national levels.

Additionally, the reorganization of the company in Chile and in the countries where SQM has lithium marketing offices has been completed, except for South Korea, which began in January 2025 as planned.

Other Ongoing Processes

In Chile, the process to obtain authorization from the FNE, which has been analyzing the alliance and its potential risks for the past seven months, is ongoing, and the big question is whether the investigation will move to Phase 2, where the timelines could be extended.

The Chilean Nuclear Energy Commission is also working on obtaining the necessary authorizations.

On the other hand, the indigenous consultation process led by Corfo is proceeding: the methodology was defined in February, and the first information-sharing meeting with community representatives will take place this week.

The communities already received copies of the contracts with Corfo at the end of 2024.

Once the final contracts with Corfo (Corfo-SQM and Corfo-Tarar) for each of the periods established in the alliance are signed, the General Comptroller's Office will need to review them.

Meanwhile, SQM continues to work on the design and engineering of the Salar Futuro Project to submit it to environmental authorities for approval after the agreement is formalized.

This is a key initiative through which new extraction technologies will be incorporated, allowing for a lithium carbonate production capacity between 280,000 and 300,000 tons per year.

Other pending items surrounding the agreement that could impact the "Gantt chart" include the lawsuit filed by the Chinese company Tianqi against the Securities and Exchange Commission for allowing the approval of the agreement only with the approval of the directors (without going through a shareholders' meeting, as it defends); and the potential outcomes of the investigative commission regarding the agreement, which is currently underway in the Chamber of Deputies.

Potash Offtake Contract

The negotiations between SQM and Codelco for the Potash Offtake Contract are in their final stages, and the draft is expected soon.

This is a significant issue, as it was escalated to the FNE by Grupo Errázuriz, which is involved in the potash market through Cosayach. The firm warns that the deal secures a monopoly position for SQM, as the agreement establishes that between the formalization of the agreement and December 31, 2030, the mining company will be able to purchase 100% of the potash products produced by the alliance in the Salar.

Marcela Godoy, President of the Second Environmental Court:

"Resolutions Must Be Enforced by the Competent Authorities"

The presiding judge of the court believes that, at times, litigants have pushed legal remedies to the extreme, causing delays in judicial decisions. She also calls for a new approach to improve efficiency in the appointment of judges.

El Mercurio de Santiago. March 8, 2025.

By Catalina Muñoz-Kappes and Eduardo Olivares

The newly renovated offices of the Second Environmental Court overlook the Palace of Justice on Morandé Street. The president of the court is lawyer Marcela Godoy, who tends to adhere to procedural language when she speaks. She is preparing to deliver the court's annual public report on March 11. That will be one of the few occasions when she publicly describes the progress of her administration. This interview is another opportunity for her to express her views.

There are differences between environmental courts (ECs) and ordinary courts. To begin with, the three ECs cover three macrozones: the first is in Antofagasta and has jurisdiction from the Arica Region to Coquimbo; the second, based in Santiago, covers from Valparaíso to Maule; and the third, headquartered in Valdivia, oversees cases from Ñuble to Magallanes. Their judges are ministers, but the courts include both lawyers and scientific professionals. Their finances are governed by their own statutes and not by the Administrative Corporation of the Judiciary.

The ECs have become a key component of the judicial system regarding investments. The most emblematic case so far has been the Dominga mining-port project, in which the First EC (based in Antofagasta) ruled that the Committee of Ministers, via the Environmental Evaluation Service, must annul previous decisions. The current Committee of Ministers—which, in effect, means the Government—has once again extended the process by appealing all the way to the Supreme Court. Some experts interpret this decision as a way to avoid compliance with the ruling.

Dominga, in fact, seems to be an example of a judicial "loop," as its legal process has now lasted nearly 12 years. Godoy never explicitly refers to Dominga, which makes sense: at this very moment, part of the case is being transferred to her court after the

First EC recused itself from handling a new appeal filed by some NGOs against the ruling in favor of the project.

"Are Environmental Courts Respected by the Executive Branch?"

— Are environmental courts respected by the Executive Branch?

"Let's focus the question a bit. Are you asking about respect in terms of enforcing rulings?"

— Yes.

"The resolutions or rulings issued by a court must be complied with by whomever they are directed at—not only by the Executive Branch but also by private individuals or companies subject to the ruling, whether it is a conviction or a declaration of legality or illegality. And clearly, they must be followed. If they are not, mechanisms exist that can be invoked by the involved parties to ensure compliance. There are also procedures in which we can enforce mandatory compliance with the ruling."

— In practice, do you see compliance with environmental court rulings?

"I would say yes... probably not in 100% of cases, but there is always the possibility that non-compliance leads to renewed judicialization. However, those cases are in the minority."

— Is there a concern that some rulings or cases may become a "loop"?

"That is precisely what we try to avoid when we emphasize that rulings must be enforced by the competent authorities and private individuals. If rulings are ignored, legal actions will be generated, and courts will have to resolve each case individually based on the specific circumstances."

— Has the Dominga case become a judicial "loop"?

"That is the general perception, and we are aware of it. Unfortunately, I cannot comment much on that matter. First, because it is not a ruling issued by this court, and second, because it is already public knowledge that the Antofagasta court has recused itself. Therefore, jurisdiction now falls to us, and this court may eventually have to rule on the case."

Endless Litigation?

— Could an individual feel that litigating before a court is futile if a state agency just keeps appealing? Does it ever end?

"That is exactly what should be avoided by all parties—the judiciary, which issues the rulings, as well as the authorities, individuals, or companies that must comply with them."

"One would expect judicial rulings to be respected."

— You say this should be avoided, but how? The law currently allows it.

"The issue is not just about legal remedies but also how those who wish to avoid compliance use them."

— Should there be a stronger commitment to respecting judicial authority?

"In 90% to 95% of cases, environmental court rulings are respected. And how do I know this? By looking at incidental compliance requests or subsequent enforcement lawsuits filed with the courts. They are minimal. However, in cases involving significant environmental damage claims, there has indeed been a failure to comply. There are ongoing assessments and studies being conducted, including by the Legislative Branch, to find solutions. If you ask about specific cases where the Executive Branch has not respected rulings, a fundamental premise in a rule-of-law state is the independence of powers and respect for our institutions. Judicial rulings should be respected. If someone disagrees, there are appeal processes. Whether the law allows more or fewer appeals depends on the good or bad faith of those litigating—whether they persist even when judicial rulings have clearly ordered something. I am not referring to any specific case but rather stating my general view on respect for judicial decisions."

— Theoretically speaking, if your court orders the SEA (the technical secretariat of the Committee of Ministers) to take action, must it comply?

"More than an order, what any administrative body must comply with is the ruling issued by the court in its judgment."

— Even if that means modifying a resolution previously issued by the Committee of Ministers?

"You're asking about a specific case. But theoretically, regarding administrative acts, the court reviews whether an act is legal or illegal. That is what is submitted for consideration. The court determines whether an act was lawfully enacted. That is the ruling that must be followed. If an act is declared illegal, the administrative body must generally redo the act."

— It should be very clear.

"Our law also has a limitation, specifically in Article 30 of Law 20.600, which states that the court's role is to declare the legality or illegality of an act, after which the corresponding agency must redo that act."

It clearly establishes that our ruling will declare whether the act is in compliance with the applicable regulations or not, and, if necessary, it will annul, either fully or partially, the provision or act that has been challenged. We will mandate that the act be modified when the challenged action requires it. However, the specific content and scope of the new act will be determined by the agency responsible for issuing it."

Interpretations

— At times, rulings could be clearer in their wording. Have you worked on improving the clarity of decisions?

"This has been a directive from the Supreme Court for quite some time (...). As an Environmental Court, we are required to issue rulings that are both technically and

legally well-founded, but we also strive to ensure that these rulings are clear for the third parties who will receive them and for those who must comply with them."

— But can a ruling be subject to interpretation?

*"A ruling is the way in which a court resolves a socio-environmental, environmental, or legal dispute. It should not allow for interpretation (...). However, in cases where a party wins a lawsuit—speaking generally about any case—that party will always have the right to demand compliance with the ruling. And how will they do that? Through different legal procedures, depending on the specific matter being handled.

Therefore, judicialization and the filing of appeals against court rulings are part of the legal system. I understand that, at times, this is taken to the extreme, but those of us with legal training know that the filing of appeals is part of the rules of the game because there will always be a losing party."*

"Indeed, excessive appeals do happen, and at times, it crosses into procedural bad faith. That is true. However, the law also addresses this issue. Judges have the authority to impose fines or request guarantees when faced with frivolous litigants or repeated attempts to unduly delay proceedings."

— Is that a common occurrence?

"It's not common, but we have encountered it. This court has imposed fines and requested guarantees specifically to prevent unnecessary delays when faced with such situations, which are also regulated by law."

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"If an act is declared illegal, the administrative body must generally redo that act."

"In 90% to 95% of cases, environmental court rulings are respected."

"We have selection processes that have been pending for more than three years. Many candidates are no longer available afterward."

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Who Is Responsible for "Permisología"?

— **Are you familiar with the concept of "permisología"?**

"I've heard it a lot. The term itself shouldn't really exist, but I understand what it refers to."

— **Do you see yourself as part of the "permisología" chain?**

"No. I don't think so, because 'permisología' has been associated with administrative processes."

— **Have you observed delays in administrative processes?**

"We have handled cases where deadlines were indeed excessive. We have pointed this out in our rulings."

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Appointment Delays: "It's Time for Reform"

In 2024, the Second Environmental Court issued 43 rulings—a record in claims and lawsuits. In 2022, 31 such rulings were issued, and in 2023, 34.

"The current workload is always high. This court has the highest case intake among all courts in the country," says Marcela Godoy.

— **Doesn't that mean delays in case processing?**

"In recent years, our average case processing time has decreased. For example, in 2024, we reduced it from 159 days to 132."

However, Godoy highlights that all ECs in the country have a shortage of full-time judges. "This is a collegiate and specialized court with a mixed composition: two lawyer-judges and one scientific judge. We should also have a substitute lawyer-judge and a substitute scientific judge. Since 2023, the Santiago Environmental Court has been operating with only two full-time lawyer-judges and one substitute scientific judge."

"Justice must be prompt and timely. Delays in resolving conflicts exacerbate socio-environmental disputes. All three courts in the country are facing the same situation—operating without a full panel of judges—which makes our work less efficient."

— **Which stage would you eliminate from the appointment process? The ADP, the Supreme Court, the President of the Republic, the Senate, or the President of the Republic again?**

*"I believe the selection stage is important—I'm not sure if specifically the ADP—but we don't have another structure, and we are not administratively under the framework of

the ordinary Judiciary that we all know. Rather than eliminating stages, what probably needs to be done is to simplify them.

There is also a delay when the Supreme Court reviews the nominations, and then another significant delay occurs once the President makes an appointment and it moves to the Senate. That stage, objectively, should not take so long (...). We have selection processes that have been pending for over three years. Many candidates are no longer available by the time the process is completed, forcing the entire selection process to be restarted, going through all the bureaucracy again—these procedures make judicial appointments endless.

I believe it is time for some reform or to explore alternatives that allow judges to continue in some kind of interim capacity while the formal appointments are finalized. Another option would be to modify the appointment process outright so that new judges can take their positions more quickly."

— If the court had all five judges, what would be a reasonable timeframe for resolving a case?

"By law, we are required to issue a ruling within 30 days after the case hearing. But this depends on many factors. The complexity of a case may require further study after the hearing, reviewing evidence. We sometimes deal with cases where the challenged administrative act alone is over 3,000 pages, not counting all additional evidence. Our commitment as environmental judges is always to resolve cases as quickly as possible."

Environmental Evaluation Times for Investment Projects Increase by up to 82% in the Last Decade

According to data from the Environmental Evaluation Service (SEA), over the last ten years, the approval time for an Environmental Impact Study (EIS) increased from an average of 547 days to 995 days, an 82% rise. For Environmental Impact Declarations (EID), the approval time went from 248 to 380 days. Experts attribute these delays to stricter regulations, more appeals, and increasing judicialization, creating uncertainty for investment.

Pulso, March 10, 2025
By Leonardo Cárdenas.

It's increasingly difficult for the private sector to obtain environmental permits to develop large investment projects. This is reflected in data from the Environmental Evaluation Service (SEA), the agency responsible for reviewing environmental impact studies and declarations. Added to this are growing regulatory requirements and observations from sectoral organizations, which have increased uncertainty for companies looking to implement new initiatives.

In the last decade, the processing time to approve an Environmental Impact Study (EIS) has significantly increased within the Environmental Impact Evaluation System (SEIA). In 2014, an investment project required an average of 547 days to obtain a favorable Environmental Qualification Resolution (RQR). By 2024, this period had risen to 995 days, an 82% increase over ten years.

The situation for Environmental Impact Declarations (EID) is no different. Over the same period, the average processing time for approved EIDs rose from 248 days in 2014 to 380 days in 2024, a 53% increase.

The difference between an EID and an EIS lies in the magnitude of impacts, not the size or cost of the project. An EIS is mandatory for projects with significant environmental effects, while an EID applies to foreseeable and limited impacts, with a more

streamlined process. The investment doesn't define its classification; the environmental impact does.

Pulso consulted with lawyers specializing in investment project processing, who agree that the increase in environmental evaluation times is a structural problem that not only affects investment but also impacts the country's development.

IMPACT

Paulina Riquelme, partner at EeLaw, explains that both for EIDs and EISs, the level of requirements has significantly increased in recent years. "The modification of the SEIA regulations introduced new requirements, such as the inclusion of climate change variables and the expansion of public participation (PAC) in EIDs, which was previously only mandatory in EISs. Now, most EIDs and all EISs must undergo a public participation process, which involves more management and evaluation time," she explains. This is compounded by the growing number of guides and evaluation criteria issued by the SEA, which have increased from 86 to 133 in the last four years.

Rodrigo Benítez, partner at Schultz Carrasco Benítez, points out that the growing amount of information required by evaluation agencies, along with a higher level of requirements and the difficulty in obtaining this information, has caused significant delays. "The evaluation guides have further sophisticated the process, adding additional time without necessarily providing greater environmental protection," he asserts.

Francisco Irarrázabal, professor of Administrative Law and Energy at the University of Los Andes, identifies three main reasons behind the increase in processing times: the increase in the number of projects submitted for evaluation, the lack of resources and training in public agencies, and the rise in judicialization in environmental matters. "The 82% increase in EIS processing times is a warning sign. If this trend continues, it will directly impact the country's growth, the well-being, and the quality of life of its citizens," he warns.

José Domingo Ilharreborde, partner at Echeverría Ilharreborde Scagliotti, highlights that the problem is not limited to the evaluation within the SEIA but also extends to the time taken by environmental institutions and courts to resolve appeals against an RQR. "Today, there are multiple instances to challenge an environmental resolution, which can result in more than three years passing before a project has certainty about its viability," he explains.

RESPONSES

The SEA explained to Pulso that "it always meets the legal evaluation deadlines, as not complying would result in the application of the positive administrative silence rule by law." They also stated that "cases that have taken between 1,000 and 1,700 days in some regions are anomalies outside the usual parameters and constitute exceptions to the general rule."

While the SEA acknowledges that some projects experience prolonged processing times, it does not attribute them to failures in its management, but rather to decisions by project owners and regulatory requirements, such as the Escazú Agreement and the Climate Change Law. Furthermore, they emphasize that as a service, they are legally obligated to apply current laws and regulations and “to provide greater technical and legal certainty to the regulated community, we unify criteria through guides, which makes environmental impact evaluations more predictable and improves the efficiency of project processing in the SEIA.”

They add that delays are mainly due to external factors, such as suspensions requested by project owners: “Project owners exercise their right to request suspension of deadlines to submit their amendments, according to their own needs.” They also mention additional administrative processes, such as the indigenous consultation process in the case of the Newen Küruf Wind Farm in Biobío, which “took 1,676 calendar days to process, of which only 166 correspond to the SEA’s legal evaluation days, and the rest corresponds to 978 business days of suspension, explained by the need to comply with the Indigenous Peoples Consultation process.”

Additionally, the SEA argues that in cases such as the Maratué Urban Housing Development in Puchuncaví, Valparaíso, “it has 177 business days of evaluation in the SEIA, but with 1,585 business days of suspension by the project owner, and a retrogression due to filed appeals, totaling 2,588 calendar days of processing.”