ENVIRONMENT

CLIENT ALERT

JUNE/2019

ENVIRONMENTAL: DELIMITATION OF INDIGENOUS LANDS

On June 24, 2019, the Supreme Court ("STF"), granted an injunctive in the Lawsuits that Challenge Constitutionality of Provisional Measure - 886/2019 ("MP 886/2019") - 6172, 6173 and 6174 ("ADIs") - to suspend articles of MP 886/2019 that had transferred the jurisdiction for delimitation of indigenous lands to the Ministry of Agriculture ("MAPA").

The competence to delimitate indigenous lands has been changing in 2019 due to the new government, namely:

- 01/01/2019: the president published MP 870/2019, transferring the delimitation of indigenous lands from the National Indigenous Foundation ("FUNAI") to MAPA;
- 05/24/2019: Congress approved MP 870/2019 conversion Bill, rejecting the previous transfer and keeping FUNAI's competence;
- 06/18/2019: the conversion Bill was sanctioned by the president and converted into Law No. 13.844/2019, keeping FUNAI's competence;
- 06/19/2019: the MP 886/2019 was edited by the president, amending Law No. 13.844/2019, to reinstate MAPA's competence to delimitate indigenous lands.

Thus, by granting the injunction, STF suspends art. 1 of MP 886/2019, reinstating FUNAI's competence to delimitate indigenous lands.

In his decision, Justice Luís Roberto Barroso stated that it is forbidden to change through a new MP a matter that had already been rejected on an MP that was in effect in the same legislative session (current period from 02/02 to 07/17), according to art. 62, §10 of the Federal Constitution, in order not to violate the principle of separation of powers.

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