

Jurisdiction over airports - environmental impacts



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Federal and local jurisdiction



- Federal, state and local jurisdiction regarding environmental matters on airports in Argentina
- Jurisdiction:
 - Federal: airports
 - State/ local:
 - Use of natural resources
 - Impact on natural resources
 - Police power

Federal and local jurisdiction



- Cases:
 - Local zoning regulations
 - Environmental control conducted by local authorities
- Consequences:
 - it may impair the mandatory uniformity, consistency, efficiency and/or security of the national airport system

Federal and local jurisdiction



- Rule - environmental jurisdiction:
 - The legal authority that has jurisdiction over natural resources has the duty to protect them (provinces)
- Environmental damage may affect various jurisdictions:
 - It is not halted by political boundaries

Ezeiza International Airport



- International Airport “Ministro Pistarini” (Ezeiza)

Province of Buenos Aires



Ezeiza International Airport



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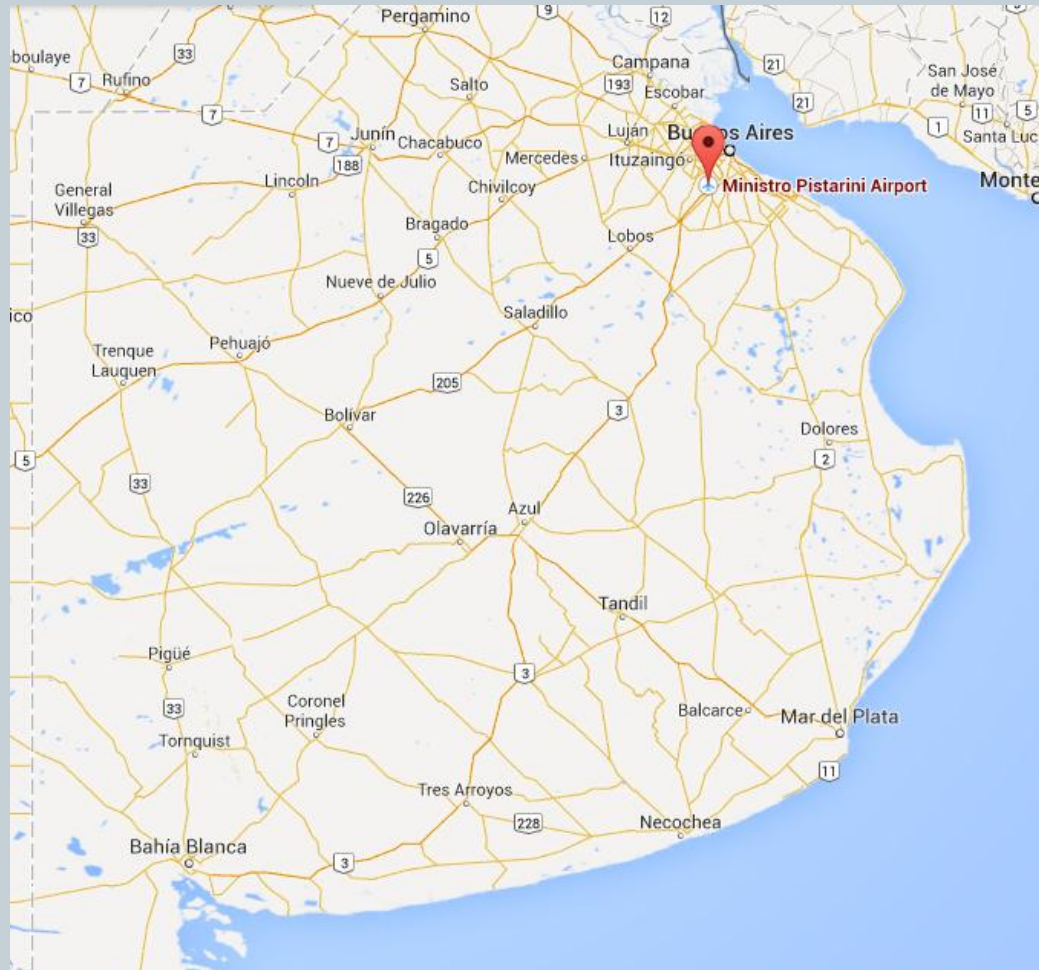
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How many agencies or authorities
have jurisdiction over this airport
regarding to environmental matters?



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Allocation of jurisdiction



- Allocation of jurisdiction between federal and provincial level:
 - General constitutional rules
 - Airport law
 - Environmental law



Allocation of jurisdiction



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Allocation of jurisdiction



- Federal law system:
 - Power is geographically divided
 - Autonomy of provinces
- General rules:
 - The provinces reserve to themselves all the powers not delegated to the Federal Government
 - The Federal Government only has the powers delegated by the provinces
 - The provinces do not exercise the power delegated to the Nation
 - Supremacy of federal law

Allocation of jurisdiction



- Supremacy of federal laws:
 - Federal Constitution
 - Laws of the Congress
 - International treaties



Allocation of jurisdiction



- Federal jurisdiction - some examples:
 - To enact federal codes (civil, commercial, criminal codes)
 - Commerce clause
 - To regulate the navigation of inland rivers, to authorize the operation of ports and customs.
 - To enact the legislation regarding “premises of national interest”. Provincial and municipal authorities shall hold power of police, insofar as they do not interfere with the achievement of the ends of those premises.

Jurisdiction – Airport law



- Airport law - federal jurisdiction:
 - National Aviation Code
 - Commerce clause
 - Clause regarding “premises of national interest”
 - “National Airport System” legal regime



Jurisdiction – environmental law



- General rule: provincial jurisdiction
- Exception: federal jurisdiction
- Concurrent jurisdiction (“*Federalismo de concertación*”)



Jurisdiction – environmental law



- Provincial jurisdiction: The provinces are entitled to regulate environmental matters on their territory
 - The provinces reserve to themselves all the powers not delegated to the Federal Government
 - Local police power
 - The provinces have the “original dominion” (ownership) over the natural resources on their territory

Jurisdiction – environmental law



- Federal jurisdiction – the Federal Government is entitled:
 - To enact laws of minimum protection standard
 - To enact the Civil Code, Criminal Code and Mining Code
 - To enter into international treaties regarding environmental matters
 - To regulate certain activities, i.e. oil/energy activity

Jurisdiction – environmental matters



- Laws of minimum protection standard (MPS)
 - to prevent the “race to the bottom”
 - minimum environmental standards for the entire country
 - no need for further regulations by the provinces
- Concurrent jurisdiction:
 - Federal Government is entitled to enact MPS laws
 - The provinces are entitled to enact further regulations with higher standards

Jurisdiction – environmental matters



28/11/2002	Law 25.675	General Environmental Act
29/07/2002	Law 25.612	Industrial waste Act
19/11/2002	Law 25.670	PCBs Act
03/01/2003	Law 25.688	Water protection and management Act
07/01/2004	Law 25.831	Public environmental information Act
07/09/2004	Law 25.916	Household waste Act
26/12/2007	Law 26.331	Native forest protection Act
16/12/2009	Law 26.562	Fire control Act
28/10/2010	Law 26.639	Glaciers protection Act

Conflict of federal and local jurisdictions



- The exercise of local police power must comply with the “reason standard”
 - Objective: not to hinder the consistency of the federal airport system
 - Technical requirements
 - Security
 - Efficiency
- Possible approaches:
 - Enhanced coordination among federal and local authorities
 - Harmonization of local environmental regulations
 - Federal laws on minimum protection standards
 - Model zoning codes

Ezeiza International Airport



- Ezeiza International Airport is located on the Matanza Riachuelo River Basin (CMR)
- CMR has been polluted for more than 200 years
- Part of the City of Buenos Aires and 14 municipalities of the Province of Buenos Aires - 2.200 km²
- Highly populated area (8 million inhabitants)
- Highly industrialized area (more than 15.000 industries)
- Low income population (25% lacks drinking water and 43% lacks sewage systems)

Matanza Riachuelo River Basin



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Matanza Riachuelo River Basin



- Supreme Court case “Mendoza Beatriz” - 2008
- ACUMAR –interjurisdictional agency – jurisdiction over:
 - Environmental matters
 - CMR area
 - Supremacy over any other agency



Conclusions



- Environmental law jurisdiction over airports:
 - Federal Government:
 - The operation of the airport
 - Authorization of new infrastructure
 - Management of hazardous waste or substances
 - Polluted sites
 - Fuels
 - Provinces/ municipalities:
 - Impact over natural resources
 - Use of natural resources
 - Local police power



<http://www.letstravelsomewhere.com/travel-inspiration/jakub-polomski-argentina/>

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Many thanks!

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