



## International E-mail Conference on Irrigation Management Transfer

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### WUA Legislation Country Profiles: ARGENTINA (Province of Mendoza)

**Constitutional framework** Argentina is a Federal State and water resources management is a function of Provincial governments (*the following information refers to the Province of Mendoza*)

#### 1. Name of organization

Legal designation: Water Authorities for Irrigation and Drainage canals in the Province (*Autoridades de Agua de los cauces de Riego y Desagües de la Provincia*), common name: Water Users' Association (*Inspecciones de Cauces*), WUA.

#### 2. Purpose

Irrigation, drainage and groundwater use.

#### 3. Legal status and capacity

Public non-profit organizations.

Capacity to enter into binding contracts, sue and be sued (public and private law).

#### 4. Establishment

No specific provision.

#### 5. Membership

Membership is compulsory if the eligibility criteria are met

##### 5.1 Eligibility criteria

All holders of rights to the use of public water delivered by the same distribution system

##### 5.2 Rights and Duties of members

Voting rights are related to the extent of the land being irrigated (in any case, no more than 10 votes per person). The right to vote depends on regular payment of fees. Not casting one's vote is sanctioned by a fine (up to three times the value of water fee per hectare).

#### 6. Internal structure

General Assembly (*Asamblea General de Usuarios*): made up of all members of the WUA. Meets in ordinary session at least once a year to approve the annual budget. Can meet in extraordinary session at the request of the General Department of Irrigation, GDI, on request of the Chief Executive Officer of the WUA or on petition of members.

Chief Executive Officer (*Inspector de Cauce*) and Board of Representatives (*Junta de Delegados*) elected every four years by all members with a simple majority vote. Electoral summons must be published in the official gazette of the Province – results must be validated by the Administrative Tribunal of the GDI. If there are no candidates or if the electoral results are contested, the Tribunal appoints the Chief Executive Officer and Representatives.

Audit Commission (*Comisión de Vigilancia*) made up of three members elected with a simple majority vote by the General Assembly. Term of office: one year (they can be re-elected).

## **7. Functions, Powers and Rights**

### **7.1 Functions**

Delivery of irrigation water, operation and maintenance of canals.

Dispute settlement. The Chief Executive Officer is responsible for solving disputes among members relating to water distribution. Appeals can be made to the Provincial Judiciary.

Others. The Provincial Government grants water rights, and WUAs must update the register of water rights in their area of operation.

### **7.2 Powers**

Levying and collection of assessments. WUAs set and collect water charges. Criteria for setting assessments: 1. financing the operation and maintenance of canals as well as repayment of construction/rehabilitation and the activities of the WUA, 2. balancing the minimum possible charge with the most efficient possible distribution service and 3. assuring that water charges are fair and equitable and aiming at the rational use of water.

Imposition of fines on users who violate the law. The authority to impose fines is seemingly subject to prior Government authorization. Defaulters on the payment of charges for the use of canal water can be fined up to 50% of the amount they failed to pay (in addition to payment of arrears).

Others. WUAs can cut off the supply of water to non-payers of water charges .

### **7.3 Rights**

Water rights are held by members individually. Water rights are attached to land; they can be transferred only temporarily to another land that uses the same distribution system.

Rights in the infrastructure. The Provincial Government may transfer ownership of infrastructure to WUAs, and to Associations of WUAs.

Rights of way. No specific provision

## **8. Financing**

WUAs are financially independent from the Provincial government.

Sources of Income. Assessments (set by the WUA itself), fines and charges, government subsidies, proceeds of the sale of timber found on the banks of the canals. All funds shall be kept in a bank account in the name of the WUA.

## **9. Government role**

The Provincial Government, through the General Department of Irrigation (*Departamento General de Irrigación*) must approve the annual budget of each WUA. GDI performs audit functions for each WUA and Association of WUAs. GDI can fine, suspend and dismiss (for offences in discharging their duties) Chief Executive Officers and can, *ex officio* or on petition of an interested party, order the production of registers and accounts. Finally, GDI may assume direct control of a WUA.

GDI is responsible for regulating WUAs.

## **10. Dissolution**

No specific provision

## **11. Federation of Associations**

Name: Association of WUAs (*Asociaciones de Inspecciones*).

Establishment: non mandatory.

Purpose: to coordinate activities of WUAs with a view to improving the quality of the water distribution service. Can pass their internal statutes to organize their activities (subject to approval of the General Department of Irrigation).

Internal structure: Board of Directors (*Directorio*), composed of one representative from each member WUA. Senior officers are the President, Secretary and Treasurer. There is a Board of Auditors (*Sindicatura*).

## **References**

### Legislation

1894 Provincial Constitution (*Constitution Provincial*), 1884 General Water Law (*Ley General de Aguas*), Law 322 (*Ley 322*) of 1905 and other Laws (*Ley 6405* of 1996, *Ley 1676* of 1947 (amended), *Ley 5302* of 1988 and *Ley 5664* of 1991) Available on the Internet at URL <http://168.83.21.37/olimpi98/DelDesiertoalOasis/default.htm>

### Literature

Solanes, Miguel, 1983 **Irrigation Users' Organizations in the Legislation and Administration of Certain Latin American Countries**. FAO Legislative Study no. 24, Rome: FAO