

Dear Stephen,

The conflict between the municipalities of Playas de Rosarito and Ensenada in Baja California, Mexico, stems from the establishment of the new municipality of Playas de Rosarito and territorial disputes related to areas like Santa Anita and La Misión. This dispute encompasses various aspects, including territorial boundaries, tax collection rights, licensing, and the provision of services.

To shed light on the numerous legal proceedings that have unfolded, I will present an overview of the court cases, their outcomes, and offer my legal analysis of this complex and sometimes misunderstood situation. My insights and opinions are highlighted in red within the text.

I.- First Territorial Dispute Between Ensenada and Playas de Rosarito. On October 24 2011, the municipality of Ensenada initiated a territorial dispute before the local Congress against the municipality of Playas de Rosarito. Their argument was, that following the creation of Playas de Rosarito, a portion of Ensenada territory, which historically belonged to them, was encroached.

On September 25, 2013, The proposal in question was presented by the Committee on Governance, Legislation, and Constitutional Points, and it aimed to settle the territorial dispute in favor of the municipality of Ensenada, however, the State Congress Resolution outcome of this vote was as follows: ten votes were against the proposal, nine were in favor of it, and two members abstained from voting.

THUS, IN THIS SITUATION ENSENADA, LOST THE DISPUTE.

II.- Second Territorial Dispute Between Ensenada and Playas de Rosarito. On June 11, 2015, Rosarito before the local Congress initiated a separate territorial dispute against the municipality of Ensenada, contesting the same territory.

On September 28, 2016, the Plenary of the Baja California Congress, with twenty votes in favor and three against, approved Report number 137, which determined that the disputed territory belongs to the municipality of Playas de Rosarito. This resolution was published on October 7, 2016, in the Official Gazette of the state of Baja California, through Decree number 684.

IN THIS DISPUTE ROSARITO WON.

III.- Constitutional Controversy 158/2016. Against Report number 137 and Decree number 684, the municipality of Ensenada filed a constitutional controversy, which was entered as number 158/2016 and resolved by the First Chamber of the Supreme Court of Justice of the Nation on

JUNE 26, 2019. It was determined that the controversy was well-founded due to violations of the right to a fair hearing in detriment to the municipality of Ensenada. Consequently, the contested report and decree were declared invalid, therefore null and void Report 137 approved by the Congress of the State of Baja California on September 28, 2016, and null and voided the Decree 684 published in the Official Gazette of the entity on October 7, 2016.

The Supreme Court has ordered the Baja California Congress to provide the City of Ensenada with a fair opportunity to present its arguments in defense of its territory. However, as of today in 2023, this resolution has not yet been implemented, as the Local Congress has not taken action to address this matter.

IV.- Constitutional Controversy 82/2016. Despite multiple requests submitted by the municipality of Playas de Rosarito to the Congress of Baja California for the issuance of the Territorial Statute referred to in Article 26 of the Municipal Regime Law, said statute remained unissued. In response to this omission, the mentioned municipality initiated a new constitutional controversy, which was recorded under number 82/2016.

The Full Court of the Supreme Court of Justice of the Nation found this controversy to be well-founded through a judgment dated January 24, 2019. As a result of this ruling, the Congress of Baja California was ordered to issue the aforementioned statute during the next legislative session.

This resolution is the one I mentioned during the General Meeting of the association, and you already have a translation of it.

V.- Reports 45 and 47 (Catastral value tables). On December 30 and 31 2019, the Baja California Congress approved Reports 45 and 47 from the Finance and Budget Committee, respectively. These reports contained the Catastral Value Tables for the municipalities of Playas de Rosarito and Ensenada for the fiscal year two thousand twenty. The first of these tables included homogeneous zone number 30160, named "POB. SANTA ANITA," which is located in the territory that the municipality of Ensenada disputed with Playas de Rosarito. Correspondingly, in the second of the mentioned tables, this zone was omitted. The tables were published in the Official Gazette of the state on the same thirty-first of December, two thousand nineteen, through Decrees 33 and 34.

In this publication, Rosarito successfully secured the right to collect the Predial tax, as it was approved by Congress and subsequently published by the Executive Power. This means that Rosarito was legally entitled to collect these taxes.

VI.- Constitutional Controversy 16/2020. The tables mentioned in the previous paragraph were challenged by the municipality of Ensenada through a new constitutional controversy (16/2020). However, it was dismissed by the First Chamber of the Supreme Court through a judgment issued on February 10, 2021.

Ensenada lost this court procedure in their attempt to claim the taxes as belonging to them. Their loss can be attributed to a combination of factors, including a misfiled Court Resolution and the fact that the taxes in question are issued on a yearly basis. Consequently, by the time the resolution was reached, the effects of the issue had already ceased. None the less Ensenada kept collecting Predial taxes for such areas were Playas de Rosarito is entitled to do so.

VII.- Publication of Decree number 15. On January 3, 2020, was published in the Official Gazette of the state Decree number 15. This decree contains the Territorial Statute of the Municipalities of Baja California, in which the perimeters of the territory assigned to each municipality are defined.

Baja California Congress published the Territorial Statute of the Municipalities of Baja California, where allocated the boundaries of the municipalities of Mexicali, Tecate, Tijuana, Ensenada and Playas de Rosarito.

As a side note I have not been able to locate this publication, since is missing from their website, however, I manage to obtain the complete Statute with its modifications of Decree number 207, published on February 19, 2021.

VIII.- Constitutional Controversy 15/2020 on February 7, 2020, to the Supreme Court of Justice of the Nation, received a **Constitutional Controversy** where it was challenged :

i) Report number 1, dated November 21, 2019, through which the United Committees on Municipal Strengthening, Governance, Legislation, Constitutional Matters, and Justice of the local Congress submitted the proposal for issuing the Territorial Statute of the Municipalities of the State of Baja California to the consideration of the Plenary of that legislative body, and

ii) Decree number 15, published in the Official Gazette of the state of Baja California on January 3, 2020, by which the mentioned statute was issued.

Supreme Court Resolution: On November 30, 2022, the Supreme Court decided to dismiss the constitutional controversy for the following reasons:

A significant change occurred when "Decree No. 207" was published in the Official Gazette of the State of Baja California. This decree approved reforms to Articles 5 and 9 and introduced Article 9 Bis to the Law of the Territorial Statute of the Municipalities of the State of Baja California. These changes had a broad impact as they altered the number of municipalities in Baja California. It now comprises not just five but six municipalities: Mexicali, Tecate, Tijuana, Ensenada, Playas de Rosarito, and San Quintín. Furthermore, the boundaries of the municipality of Ensenada were modified, and a new municipality was defined.

Due to these changes, the initial text of the Territorial Statute, which was in force before the reforms, no longer applies. Instead, the new text governs all aspects regulated by the statute.

In light of these developments, the constitutional controversy related to "Dictamen number 1" dated November 19, 2019, and "Decree number 15" issued on January 3, 2020, both of which were the subject of the dispute, is considered inadmissible. As a result, there's no need to consider other reasons for inadmissibility.

Therefore, the contested report and decree are dismissed as stipulated by Article 20, Section II, of the Regulatory Law for this matter.

As you can see after the dismissal of this court procedure, the Law of the Territorial Statute of the Municipalities of the State of Baja California is enforced, and determines the boundaries for the municipalities of the State of Baja California.

IX.- Conclusion:

In summary, the complex legal situation involving territorial disputes and court proceedings in Baja California has evolved through several key events:

I. **First Territorial Dispute:** In 2011, Ensenada initiated a territorial dispute against Playas de Rosarito but lost the case on September 25, 2013.

II. **Second Territorial Dispute:** In 2015, Rosarito initiated a separate territorial dispute against Ensenada and On September 28, 2015 won.

III. **Constitutional Controversy 158/2016:** Ensenada filed a constitutional controversy against the previous resolution, leading to its invalidation by the Supreme Court. On JUNE 26, 2019, the Supreme Court ordered Baja California Congress to provide a fair opportunity for Ensenada to present its arguments regarding territory, but this resolution remained unimplemented as of 2023.

IV. **Constitutional Controversy 82/2016:** Playas de Rosarito initiated a constitutional controversy due to the unissued Territorial Statute, leading to a Supreme Court order dated on January 24, 2019 for its issuance in the next legislative session.

V. **Reports 45 and 47:** On December 30th and 31st Playas de Rosarito secured the right to collect Predial tax through legislative reports and decrees.

VI. **Constitutional Controversy 16/2020:** Ensenada challenged the Predial tax but lost the case on February 10, 2021.

VII. **Publication of Decree number 15:** Baja California Congress published the Territorial Statute on January 3, 2020.

VIII. **Constitutional Controversy 15/2020:** Ensenada challenged the Territorial Statute and Decree number 15, which was dismissed by the Supreme Court on November 30, 2022.

As of "Decree No. 207," resulting in the dismissal of the constitutional controversy related to "Report number 1" and "Decree number 15." The new text of the Territorial Statute now governs all aspects.

Following this resolution, the Territorial Statute of the Municipalities of Baja California, as determined by "Decree No. 207," defines the boundaries for the municipalities in the state, in this case la Mision Vieja of San Miguel forms part of Playas de Rosarito.

However, it's worth noting that the resolution of Constitutional Controversy 158/2016 obligates the State Congress to provide a fair hearing to Ensenada, which could potentially result in a reevaluation of its boundaries or even trigger another constitutional controversy. As it stands, Ensenada has not acknowledged this resolution and continues to exercise jurisdiction in the disputed area, creating confusion among the residents of such areas.

I hope this provides you with a comprehensive understanding of the ongoing dispute between Playas de Rosarito and Ensenada, including the various disputes and resolutions involved. I have all the relevant documents and resolutions related to this complex situation. If you would like any translations or have any questions, please feel free to reach out to me.

Respectfully
Carlos M. Rudametkin