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A RECENT DECISION BY THE MEXICAN SUPREME COURT OF JUSTICE IN CONNECTION WITH THE RANKING OF INTERNATIONAL TREATIES WITHIN THE MEXICAN LEGAL SYSTEM

[Antonio Vázquez](#)

As we mentioned in our last edition of Coelum, Mexico's Supreme Court was about to review the correct ranking within the Mexican legal system of International Treaties signed by Mexico.

This discussion was generated because of a number of disputes related to the North American Free Trade Agreement (NAFTA), in which apparently some of Mexico's legal provisions were not in accordance with NAFTA. Because of this, it was necessary to determine which law should prevail, the Federal Law of Mexico, or this International Treaty. A solution required the Supreme Court to make an interpretation of the article 133 of Mexican Constitution.

For that reason, in this particular case, it is important to be aware of the text of article 133 of the Mexican Constitution:

***Article 133.** This Constitution, the laws of the Congress of the Union that emanate there from, and all treaties that have been made and shall be made in accordance therewith by the President of the Republic, with the approval of the Senate, shall be the supreme law of the whole Union. The judges of each State shall conform to the said Constitution, the laws, and treaties, in spite of any contradictory provisions that may appear in the constitutions or laws of the States*

The discussion in the Supreme Court was to basically focus on the interpretation of the article 133 of the Constitution, in order to determine if this constitutional provision stated a ranking between the International Treaties in which Mexico is party and the Mexican Federal laws. One important aspect to

COELUM is Latin for air space or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.



mention is that with its decision, the Supreme Court of Justice did not solve the legal procedures that provoked the discussion of this topic, but only made a general abstract interpretation of the specific Constitutional provision that was necessary in order that the two Courts of the Supreme Court may rule on each of the legal procedures that were submitted to its jurisdiction.

The discussion took place on February 12th and February 13th in a public plenary session with the participation of all the judges of the Supreme Court.

The final decision will not be jurisprudence because it was reached with a favourable vote of only six of the eleven judges. Mexican Law provides that a plenary session of the Supreme Court may create jurisprudence with the favourable vote of at least eight judges. The final decision was based on the following precepts:

1.- Article 133 of the Constitution provides a ranking of Mexican laws, in which the most important law is the Political Constitution of the Mexican States.

2.- International treaties are below the Political Constitution of the Mexican States but above the Federal and Local Laws, including those Federal Laws that are categorized as "general laws", which are laws that regulate a specific constitutional item, like for example the Federal Labor Law and the General Law of Education.

Once this matter has been solved, the two Courts of the Supreme Court will rule on the specific cases in which the matter of litigation is, first of all,

to determine if the federal law is in conflict with NAFTA, and if so, to rule that the applicable federal law is unconstitutional as long as it conflicts with a superior law such as an International Treaty like NAFTA.



Mexico's Supreme Court

"International treaties are below the Political Constitution of the Mexican States but above the Federal and Local Laws, including those Federal Laws that are categorized as general laws".



OLD TERRORISM VERSUS THE 9/11 SECURITY AGE

Adolfo Samaniego

Basque separatism in Spain goes back to the Ninth Century and possibly even further, however 1959 is the year in which a Marxist-Leninist group known as Euzkadi Azkatasuna (ETA), started a resistance/separatist movement whose most consequential terrorist act was the assassination by bomb on December 1973 of Admiral Luis Carrero Blanco, Franco's successor and President of the Spanish government. Although this killing was considered in some political circles, especially by the opposition in exile, as an instrumental step for the subsequent establishment of democracy by King Juan Carlos de Borbon. ETA's major campaign of attacks started after Franco's regime with more than twenty bomb attacks from 1980 through December 31, 2006. In respect to the last one terrorist attack, a truck

bomb in Madrid's Barajas airport destroyed a four-story parking structure and killed two Ecuadorian immigrants, a lamentable situation that brings us face to face with the reality of post 9/11 security measures that passengers are suffering all around the world.

ETA's attack on Barajas airport should be understood as a failure of all of the security systems that were imposed after 9/11. After this event, is there any reason for us to feel safe inside any airport facility? We thought so, before December 31, 2006, but at the time of this writing, I now think that all the resources and measures implemented were poorly planned and put in place without any study of relative risks, cost benefits and most important of all, without looking back in history for similar cases that might be repeated. Why should improvements be



ETA's attack on Barajas, Madrid



9/11



“Old terrorism is far from dead, and essentially, it keeps using the same methods of ‘shock and awe’ used two hundred years ago”.



made to the already strict security measures inside the sterile areas of the airports when full access zones, such as parking lots are barely under surveillance? I am not just talking about measures in Spain, but also in the United States and Mexico, where security is almost totally concentrated into specific areas, while leaving other areas unattended. On February 26, 1993, prior to what I call the “9/11 hysteria”, a terrorist attack occurred in a parking garage below Tower One of the World Trade Center. Eight years later we had not learned that substantial damage can be done to a principal structure by affecting the one attached to it. Take the example of what happened in Madrid minutes after the bombing occurred. Firstly, all flight operations were cancelled for several hours; secondly, the flow of passengers was interrupted; thirdly, all systems and communications were suspended; fourthly, chaos and collective hysteria invaded not only the airport but the whole city as well; fifthly, mobilization of Police and Fire Departments. Compared to this, was there any difference with what happened in New York six years ago? Basically, we have to say no. Was there any difference in regard to the security measures that were established before 9/11 and the current ones that were applied on December 31, 2006? Unfortunately, we have to say yes.

CONCLUSION

Today, governments from all around the world are losing the fight for airport security. They are expending great efforts, and introducing ever new security measures, regrettably with the loss of several human lives. Meanwhile, old terrorism is far from dead, and essentially, it keeps using the same methods of “shock and awe” used two hundred years ago.



THIS MONTH'S EXTRACT OF MEXICAN AVIATION NEWS

o Air France's revenue exceeds expectations

Air France KLM, the world's largest airline in terms of revenue, reported an increase in its operating earnings for the third quarter of 2006 of 252 million Euros. This was better than market predictions. Air France KLM reported that its billings were up by 5.9% to 5,750 million Euros, and its profit was three times larger at 229 million Euros.

El Financiero. 14/ Feb / 2007

<http://www.elfinanciero.com.mx/ElFinanciero/Portal/cfpages/contentmgr.cfm?docId=43166&docTipo=1&orderby=docid&sortby=ASC>

o Profeco starts legal action against Air Madrid

For the first time since its creation, the *Procuraduría Federal del Consumidor* (Federal Prosecutor) presented a class action in the courts, representing all passengers affected by the suspension of the Air Madrid's services. The Federal Prosecutor seeks to obtain refunds or to indemnify passengers for damages.

El Economista. 16 / Feb / 2007

<http://www.eleconomista.com.mx/articulos/2007-02-15-30266>

o Time limit past to present Air Madrid claims

The Mercantile Court in Spain, which is handling the case of Air Madrid, reported that the time limit is over for presenting claims for ticket refunds and for compensation claims for expenses caused by the suspension of Air Madrid's service.

El Universal. 20 / Feb / 2007

<http://www.eluniversal.com.mx/notas/407820.html>

o Low-cost Executive airline starts operations

L'Avion, the first low cost executive class airline, started operations between Paris & New York. Its fares run from 2,000 to 4,000 Dollars. L'Avion, based in France, operates with a Boeing 757-200 with 90 first-class seats, instead of the 200 to 220 coach seats normally offered on an aircraft of this type.

Reforma. 20 / Feb / 2007

<http://www.reforma.com/negocios/articulo/724001/>

o Mexicana asks flight attendants for 20 more hours per month.

Mexicana's proposal for the Flight Attendants lists three major items: To fly the same number of hours as agreed with the Pilots; to give up certain benefits; and to accept a new labour scheme for new flight attendants. ASSA (Association of Flight Attendants) wants to keep monthly hours at 140, while the company asks for 160, which is the same as the pilots have signed. Mexicana estimates that if flight attendance can increase the productivity by 20 hours, it would mean a saving of 7 million Dollars per year.

Reforma. 22 / Feb / 2007

<http://busquedas.gruporeforma.com/utilerias/imdservicios3W.DLL?JSearchformatS&file=MEX/REFORM01/00849/00849670.htm&palabra=Apuesta%20Mexicana%20por%2020%20horas%20m%C3%A1s%20de%20sobrecargos&sitereforma>



- **Boeing delivers its first new generation aircraft**

The first Boeing 737-700ER departed from Seattle and flew to Japan, to enter service with All Nippon Airways. ANA plans to begin operations with this aircraft on March 25, 2007 when it launches its subsidiary ANA Business-Jet, a new service for business travellers.

El Financiero. 22 / Feb / 2007

<http://www.elfinanciero.com.mx/ElFinanciero/Portal/cfpages/contentmgr.cfm?docId=44353&docTipo=1&orderby=docid&sortby=ASC>

- **SCT monitors operation of Azteca Airline**

Azteca Airline faces four judgments submitted by Mexico City International Airport for a total debit of 18,362,000 Pesos. Because of this, the SCT said that they will pay "close attention" to the enterprise's operability.

El Economista. 26 / Feb / 2007

<http://www.eleconomista.com.mx/articulos/2007-02-25-30924>

- **Building aeronautics school in Mexico**

The first public aeronautical school in Mexico will be build in Querétaro International Airport, such institution will qualify technical personnel for the aeronautical industry. The main purpose will be provide training to professionals in order to be exported to other countries or work for any aircraft manufacturer.

Reforma. 28 / Feb / 2007

<http://www.reforma.com/negocios/articulo/743190/>

- **Aeromexico Shares to be offered in the Stock Market**

Aeromexico's Shareholders' Consortium has decided that the airline group's shares will be sold on both national and international stock markets by means of a primary and a secondary placement. The sale of these shares will consummate the agreements reached with the flight attendants, pilots and handler unions.

Reforma. 28 / Feb / 2007

<http://www.reforma.com/editoriales/negocios/743332/>

- **Airbus will reduce 10 thousand employees over next four years**

Airbus presented its restructuring plan named "Power 8" to the Company's European Committee. The plan indicates that it will reduce 10 thousand employees over the next four years: 400 from Spain, 1,600 from England, 3,700 from Germany. The country most affected will be France, where 4,300 employees will be reduce.

El Universal. 28 / Feb / 2007

<http://www.eluniversal.com.mx/notas/409445.html>



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NEWSLETTER



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