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Cancelation Saga.
by Julio Vargas.

JUNE NEWS on
Mexican Commercial Law

COELUM: Pronunciation: 'che-l&m, is Latin for airspace 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.

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Mexico's City New International Airport Construction/Cancelation Saga.

by Julio Vargas.

It has been almost a year since Mexico's elect President López Obrador announced that once that he would take office officially, one of his first formal acts was going to be the cancelation of the construction of the New Mexico City International airport, the "New Airport".

He later announced that, he would previously call for a "democratic citizens consultation" to validate his decision, eventually the consultation took place with very few citizen's involvement and the new airport project which had a 30% of construction developed was cancelled.

"In that sense, 147 amparo lawsuits were filed before federal district judges recently and the early developments of such cases are beginning to arise with somewhat surprisingly glad results at these early stages of the dispute."

The now official President of the United Mexican States also mentioned that instead of simply cancelling the New Airport he would order the construction and refurbishment of a military base airport and modifying two nearby airports to substitute the New Airport project, the "Military Airport".

Besides the rejection of the majority of the citizens, and the international financial community which has been worldwide known and spread, but still have not cause any reversal of the cancelation decision, recently a segment of citizens involved in these topic of national interest, seek counsel and found a voice through a chain of law firms, who pro-bono decided to take legal action and challenge those two presidential decisions, namely the New Airport project cancelation and the order for the reform/construction of the Military Airport.

In that sense, 147 amparo lawsuits were filed before federal district judges recently and the early developments of such cases are beginning to arise with somewhat surprisingly glad results at these early stages of the dispute.

The amparo lawsuit is a legal procedure design to challenge authority acts to prevent that such acts violate constitutional and the human rights of the citizens. The decisions issued by district judges in amparo cases may also be challenged before federal high courts or the Supreme Court.

As a procedural strategy in the initial filings some plaintiffs or petitioners requested, among others, a stay order to maintain the things in their current situation, this with the intention to protect the subject matter of the amparo filing.

With so many cases coming from citizens of different states the cases have been assigned randomly to different district judges, so each judge has his own criteria.

Since the amparo lawsuits have been filed by many different citizens, a stay or suspension order has not been requested in all cases ab initio, but in the cases that in fact it has been requested along with the initial filing, the stay order requests have been coming out with significant and important effects.

It is important to point out that the stays in some cases was granted by the district judges, in others it was denied, so the petitioners had to challenge such denial before a high court which in some cases overruled the initial judge's denial and order to grant the stay, but some also confirmed the denial.

The first stay granted by a district judge was for the purpose to order the authorities to abstain to continue with the Military Airport construction until the necessary legal authorizations that assure that the construction does not damage the environment and does not attempt against integrity of the cultural heritage of the land in where the construction is taking place.

In other case, a high court namely Collegiate Tribunal, has revoked the initial denial from a district judge and plaintiffs have obtained very important stay against all the government authorities involved in the authorization and execution process. It also ordered to maintain the existing construction works of the New Airport.

This new stay granted by the high court is in similar terms as the first one but it is important to point out that, additionally, it ruled that the stay with respect to the Military Airport was until the authorities comply with all the necessary studies with respect to the airspace and airport security, therefore the construction of the Military Airport was also stopped.

It is relevant and important to point out some parts of the issues discussed between the district judge and petitioners before the high court to determine if stay orders were in order or not.

The challenging petitioners argue that it is illegal to arbitrarily order the modification of the Military Airport to modify it into a civil one as a consequence of the cancellation of the New Airport project in progress without having previously any study or report legally required related to airspace and airport safety and security, feasibility, air technical reports, costs/ benefits, legal and administrative issues as well as issues related to environmental and pollution matters, financial, social benefits if any, and safety mechanisms of the entire project.

Furthermore, the stay holds that the spending of the country's monies in the construction of the Military Airport without the proper studies, permits and clearances must stop since it is not a matter of a vague presidential desire or baseless order.

Movants insisted that the Military Airport alternative project lacks any necessary study, due diligence, technical and environmental that address airspace, airport and passenger safety, authorizations and funding, constitute a violation of human rights to a safe and clean environment.

They also argued that the district judge forgot to resolve any order with respect to the stay order request for purposes of impeding any authority to flood, destroy or execute any act over the built project of the new airport until the date it was cancelled.

The lack of reference to this legal petition constitutes a due process violation that when challenged obliges the Collegiate Tribunal, as it did, to study and resolve that particular issue among the rest of the arguments filed with the remedy against the stay rejection determined by the district judge.

The Collegiate Tribunal did study those arguments and resolved that, in fact, the background and reasonable existence of the claimed authority acts was demonstrated by the petitioners meeting certain technical standards, for example, in this particular case, that the petitioner is a commercial pilot.

Against the district judge decision, the high court considered that in fact continuing with the construction/ modification of the Military Airport to convert it in a civil international airport without the necessary authorizations, safety studies that comply with international treaties and standards, without any environmental impact study and administrative granting, all of which such requirements, are in fact, the necessary and sufficient grounds to revoke district judge decision and grant the stay against any authority that intends to continue with the Military

Airport transformation without having the complete files of studies and necessary documents and response including environmental damage certificate and international safety certificate of the Military Airport.

All of the above constitutes according to high court a potential violation of the human rights established and which therefore, need to be protected during the amparo trial. In fact, the high court even mention in its ruling that they were aware of the life risks and personal integrity that the pilot and all citizens will face if the construction of the Military Airport continues. Life and personal integrity do constitute human rights of the citizens that need to be protected by all authorities. The mere threat of those human rights are suffice, court upheld, to demonstrate on the petitioners end at least a legitimate interest necessary to file an amparo lawsuit. For purposes of the stay order granting, it its only necessary to meet these mere threat as opposed to the complete and full demonstrations of the human right violation, since that is the subject matter to be ruled in the amparo trial.

“In summary, the stays related to the New Airport consist in stopping all and any actions and attempts to destroy the existing construction works and furthermore, to take actions to preserve them.”

Furthermore, in this particular case of the commercial pilot acting as petitioner of the amparo, high court said, it is possible to infer the possible violations to its life human right as a risk of his life if the construction/transformation of the Military Airport continues without the proper and necessary studies of airspace safety within international standards, is in fact a life and personal integrity risk suffice for the stay to be granted.

Finally and with respect to the authorities orders to flood, destroy or attempt damage of any building on the New Airport, the high Tribunal held that, such authorities actions will in fact affect the subject matter of the amparo in case it is granted in the merits, because there is a risk that even if granting the amparo the buildings might be destroyed turning useless the granting to the amparo in benefit of the petitioner. Court stay order impeding the authorities to destroy the buildings of the New Airport, in no way affects any social interest or any citizens rights, which could happen in the contrary.

In a different case, another district judge also ordered to stop any attempt or action to destroy the existing construction works of the New Airport.

Then again, additional stays were granted by district judges ordering to: i) stop the construction of the Military Airport until it becomes feasible to verify that authorities have the necessary environmental permits, authorizations and studies in general, necessary for its construction; and ii) safekeep the construction works of the New Airport preventing its destruction and, additionally, to undertake the necessary actions to preserve the existing construction works.

In summary, the stays related to the New Airport consist in stopping all and any actions and attempts to destroy the existing construction works and furthermore, to take actions to preserve them.

In the case of the Military Airport, judges have order stays to stop the construction or refurbishment until all the necessary authorizations, studies, documents and permits related to safety and security of citizens, airport and airspace; environmental impacts and cultural heritage preservation are executed.

This saga is far from the end and in future COELUM deliveries we will update you with these Mexico’s President morning mood decisions and campaign promises. It is nice to hear that in some cases justice is being served, at least momentarily.

Could The “Flying-V” Fuselage be the future of Aviation?

Delft University of Technology is currently working to develop an aircraft fit for the future. The plane, named the ‘Flying-V’, completely revolutionizes aircraft shape, incorporating wings, fuselage and cabins all into one. The V shaped aircraft is expected to be far more efficient than anything else in the skies, returning 20% more fuel efficiency than an Airbus A350. Flying V is designed to be highly efficient offering everything the Airbus 350 can right now, but at lower cost to both operators and the environment. <https://simpleflying.com/flying-v-aircraft/> June 04, 2019.

Meet the 5 resolutions signed by the airlines in Seoul.

The International Air Transport Association (IATA) announced the approval of five resolutions within the framework of its 75th General Assembly, which will mark the route to be followed by international aviation. Firstly, the implementation of the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), in order to limit carbon emissions produced by aviation. Secondly, it was reaffirmed the importance of having a global harmonized system of airport slots. Thirdly, regarding Radio Frequency Identification (RFID), the agency will implement a modern messaging standard so passengers can locate their belongings in real time during their trips. Fourthly, an initiative that uses a unique biometric identifier allowing passengers to identify themselves at airports without any printed documents and finally, there will be an improvement in the traveling experience for people with an incapacity. <https://a21.com.mx/organismos/2019/06/02/conoce-las-5-resoluciones-que-firmaron-las-aerolineas-en-seul> June 04, 2019.

SEMAR will support aeronautical technology from Queretaro.

The aeronautical sector in Queretaro seeks to develop technology for the industry in collaboration with the Secretariat of the Navy (Semar). The governor Francisco Domínguez Servién and the Vice Admiral Juan José Padilla Olmos, general coordinator of Naval Aeronautics of the Navy, led a ceremony in which the strengthening of the link between the Semar and the Aeronautical University in Querétaro was agreed to participate in activities of technological exchange, of researchers, and even to develop technology jointly. <https://www.elfinanciero.com.mx/bajio/la-semar-apoyara-tecnologia-aeronautica-queretana> June 05, 2019.

Santa Lucía airport does not stop, ensures López Obrador.

The president of Mexico Andrés Manuel López Obrador ruled out that the construction of the new airport in the Santa Lucía military base will be suspended, after the recent “amparos” promoted against the construction. “We will comply and in two years the new airport will be ready,” the president said at his morning press conference. He reiterated that those who oppose the Santa Lucia project are those who lost millions in investments in the work in Texcoco. <https://aviaciondia.com/2019/06/mexico-aeropuerto-de-santa-lucia-no-se-detiene-asegura-lopez-obrador.html> June 14, 2019.

Mexico Participates in the International Air & Space Hall, Paris Air Show Le Bourget 2019.

Seven State governments and representatives of the Mexican aeronautical industry attended to the 2019 edition of the Paris Air Show from June 17 to 23, together with the most important global companies in this sector under the coordination of the Mexican Federation of the Aeronautical Industry. The executive president of the Federation, Luis Lizcano, spoke about the Mexican aeronautical industry, stating that we are at a time when unity and joint work are necessary in the face of global competition. For his part, the ambassador of Mexico in France, Juan Manuel Gómez Robledo, said that the aeronautical industry has significantly boosted economic development and competitiveness in Mexico, thanks to the presence of important companies of the industry in the country. He also noted that Mexico’s participation is in full harmony with the government’s actions to achieve the well-being of Mexicans. <https://www.gob.mx/sre/prensa/mexico-participa-en-el-salon-internacional-de-la-aeronautica-y-el-espacio-paris-air-show-le-bourget-2019-205019> June 17, 2019.

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Civil Air Navigation Services Organization: Invisible Hero of Aviation.

Infrastructure generated by air navigation makes possible to optimization of the skies allowing more airplanes to travel, which is why is the invisible hero of aviation, said Javier Vanegas, director of the Organization. CANSO identifies two reasons why a navigation system is not implemented in the most optimal way or is done late: One, the industry is always more advanced than the legal regulation of a country and; two, there is a global shortage of controllers. In Mexico alone, around 300 controllers are needed to supply the number of operations that the country currently has. <https://a21.com.mx/aeronautica/2019/06/17/promueven-industria-aeroespacial-mexicana-en-le-bourget-paris-air-show> June 17, 2019.

How quantum computers are transforming travel.

While still in an early stage of development quantum computers are already making an impact in the automotive and aerospace sectors. As cars become increasingly connected and aircraft ever more sensor-laden, automotive and aerospace companies are making a transition from being 'nuts and bolts' manufacturers to so-called 'mobility companies' that collect and use unprecedented amounts of data.. <https://eandt.theiet.org/content/articles/2019/04/how-quantum-computers-are-transforming-travel/> June 18, 2019.

Airlines Use Facial Recognition.

Airlines and airports around the world are adopting facial recognition technology to streamline procedures. Using a smartphone, each passenger can scan their passport and associate it with their face. Although it simplifies the documentation and migration processes, many people are already opposed to using both their data and their face. Jay Stanley, a political analyst at the American Civil Liberties Union, says the US government "is using the extremely powerful and dangerous biometric recognition of faces, which really has the potential to become a serious technology of control." <https://aviaciondia.com/2019/06/cada-vez-mas-aeropuertos-y-aerolineas-utilizan-la-modalidad-de-reconocimiento-facial.html> June 18, 2019.

Passengers Ask Governments to Boost Biofuels.

So far 2019, 33.7 million passengers have been transported by air, reflecting a growth of 4.0% with respect to 2018 The passengers are looking for governments to implement new technologies and develop sustainable aviation fuel to reduce carbon emissions, the International Air Transport Association (IATA) reported, after showing the results of a survey conducted in Europe. In this sense, the sample showed that in key markets in the European Union - such as France, Germany, the Netherlands, Spain and the United Kingdom - users do not have confidence in the implementation of environmental taxes, since they consider them ineffective. <https://a21.com.mx/aeronautica/2019/06/24/pasajeros-piden-gobiernos-impulsar-biocombustibles> June 24, 2019.

An Aviation Tax Could Be the Answer To Climate Change Worries.

Could an aviation tax be the answer to the European Union's carbon emissions worries? A group of European MPs think so as they met in the Netherlands for a two-day conference on the matter.. <https://simpleflying.com/climate-change-aviation-tax/> June 27, 2019.

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