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“Pursuant to orders from above” - Legal and operational challenges arising from the appointment of former military officials in both private and public civil aviation roles.

By Misael Arellano

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 how high above them those rights would extend. They decided on, Ad coelum et ad inferos, meaning that their property rights would extend as high up as the heavens and all the way down to hell.

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Over the past several years, Mexico has experienced a steady and unprecedented trend toward the militarization of various civilian functions, including civil aviation. We have observed the significant legal and operational challenges arising from the appointment of former military officers to senior positions within key civil aviation authorities, such as the Federal Civil Aviation Agency (AFAC); local offices of immigration and customs authorities at multiple international airports across the country; and within the management of critical infrastructure like the Mexico City International Airport (AICM) dba "Grupo Aeroportuario Marina" and the Grupo Aeroportuario, Ferroviario, de Servicios Auxiliares y Conexos Olmeca - Maya - Mexica, S.A. de C.V. (GAFSACOMM) dba "Grupo Mundo Maya".²

"The integration of military command structures into civil aviation operations, both regulatory and logistically, diminishes the role of SICT, which remains the Secretariat legally empowered to oversee national aviation policy."

Traditionally, civil aviation oversight in Mexico has been entrusted to technical professionals within the civilian bureaucracy. However, the current administration has increasingly appointed former or active members of the Mexican Armed Forces to direct key institutions. The AFAC, a regulatory agency legally subordinate to the Secretariat of Infrastructure, Communications and Transport (SICT), is currently headed by a retired general from the Secretariat of National Defense (SEDENA) and, on the other hand the AICM, despite being a public airport with civil infrastructure, is under the operational leadership of personnel from the Secretariat of the Navy (SEMAR).

This distribution of authority has placed the two military branches, SEDENA and SEMAR, in parallel and sometimes conflicting roles within civil aviation, generating operational uncertainty and a breakdown in institutional clarity.

To understand the implications, we must consider the internal command structures of the Mexican armed forces: SEDENA oversees both the Mexican Army and Mexican Air Force; and SEMAR commands the Mexican Navy and its Marine Corps. Each secretariat has its own distinct chain of command and operational doctrine.

SEDENA and SEMAR are co-equal institutions, meaning that no formal superior-subordinate relationship exists between the Army and the Navy. This institutional parity becomes particularly problematic when both entities operate within the same civil aviation ecosystem, each issuing independent, at times contradictory, orders, and expecting compliance without regard for legal limitations or the specific administrative powers conferred upon their respective roles.

For instance, who prevails when an instruction issued by the Navy-led AICM contradicts or disregards a regulatory directive from AFAC, which is headed by a retired Army general? This is not a hypothetical concern, it reflects the

1.- Overseeing the administration of the international airports of Ciudad del Carmen (CME), Ciudad Obregón (CEN), Guaymas (GYM), Loreto (LTO), Matamoros (MAM), and Mexico City (MEX), as well as the domestic airport of Colima; taking control of the equity interests in the international airports of Toluca (TLC) and Cuernavaca (CVJ), and continuing the technical, financial, and operational collaboration previously carried out by Mexico City Airport Group at San Felipe International Airport (SFH) and Lázaro Cárdenas (LZC) domestic airport.

2.- Overseeing the administration of the international airports of Tulum (TQO) and Felipe Ángeles (NLU); Mexicana, the airline assigned to the SEDENA; and the Tren Maya, the railway infrastructure in the southeastern of Mexico.

daily uncertainty and operational confusion faced by airlines, service providers, and private operators navigating overlapping chains of command.

The integration of military command structures into civil aviation operations, both regulatory and logistically, diminishes the role of SICT, which remains the Secretariat legally empowered to oversee national aviation policy.

AFAC, as a deconcentrated agency of SICT, is legally bound to follow the policy, strategy, and oversight of the Secretariat. However, in practice, AFAC's leadership, given its military background and institutional loyalty, often acts independently of SICT, responding instead to internal directives from SEDENA or acting "Pursuant to orders from above" from military leadership.



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Similarly, SEMAR's operational control of AICM places key decision-making outside the SICT's administrative scope, despite AICM's legal status as a federally operated civil facility.

This leads to the central issue facing Mexico's aviation sector: who has ultimate authority SICT, AFAC, SEDENA, or SEMAR? Legally, the answer is SICT. Constitutionally, civilian Secretariats retain authority over deconcentrated and decentralized entities. However, functionally, military actors now wield de facto control over two of the most influential civil aviation bodies in Mexico (AFAC and AICM), creating a shadow hierarchy in which military rank may carry more weight than civil administrative authority.

This breakdown in the command structure results in conflicting instructions being issued to operators by different military authorities (SEDENA vs. SEMAR), leading to a loss of institutional coherence. In practice, both AFAC and AICM often operate outside the policy framework and administrative oversight of the SICT. When military personnel are appointed to roles that should be occupied by civilian regulatory officials, they may prioritize military hierarchy over civilian administrative subordination, undermining the intended structure of governance and regulatory accountability.

As a matter of conclusion, we would say that Mexico's civil aviation system is currently navigating a precarious legal and operational imbalance. The overlapping mandates of AFAC, SEMAR, and SEDENA, each asserting influence within their military doctrine, have disrupted the civilian nature of aviation regulation and created a fragmented environment for both compliance and enforcement.

It is essential that the SICT reassert its constitutional authority as the governing body over civil aviation. Equally important is the reaffirmation of AFAC's role as an independent civilian regulator, with its leadership appointed based on professional expertise in civil aviation, rather than military affiliation.

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Misael is a partner and heads the Regulatory group at Sierra LATAM. Misael has extensive experience in providing operational aspects of aviation law, representing international air carriers in Mexico. With over 20 years of experience Misael advises on regulatory and compliance aspects for airline operations and obtains governmental licenses and authorizations before the necessary authorities for the efficient and safe operations of Sierra LATAM's clients. Misael is ranked in Chambers Aviation Mexico.

Education

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- Social Science program by Universidad Antonio de Nebrija, Madrid
- IATA Certificates of International Air Law for Lawyers and Legal Professionals; Law of Aviation Insurance; Airline Contract Law; and Aircraft Acquisition and Financing
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Memberships

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