

COELUM

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New Requirements for the International Transportation of Minors.

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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.

New Requirements for the International Transportation of Minors.

by *Misael Arellano.*

On December 12, 2013 the following changes to the immigration legislation were published in the Official Journal. The modification was to articles 42 section II second paragraph and section V; 53 second paragraph and 247 of the Regulations of the Immigration Law (RIL) in respect to the transportation of minors or persons in custody in terms of civil legislation, accompanied by a legal age third person or traveling alone. In this edition of Coelum, we will conduct a brief analysis of the applicable rules and the procedure, in respect to the adoption of new requirements applicable to international carriers regarding the transportation of minors from Mexico.

TWO OPTIONS.

Article 42 section II second paragraph of the RIL states that carriers providing international air transport services have the obligation, in the case of girls, boys, adolescents or persons in legal custody in terms of civil legislation, accompanied by a legal age third person or traveling alone; to verify that such passengers observe the rules stated in paragraph b) of section V of the same article 42, as follows:

“Article 42. The companies providing international transport services by air or sea will have the following obligations:

I. to IV...

V. To transport girls, boys, adolescents or persons in legal custody in terms of civil legislation abroad, when they have a passport or valid travel and ID document in force, in observance of the applicable legislation. In the case of Mexicans as well as foreigners, with the status of permanent resident, temporary resident and student temporary resident in Mexico, all must be covered by any of the following circumstances:

a) Traveling in company of one person who has the parental authority or custody, in observance of the civil legislation requirements; or

b) Traveling alone or in company of a legal age third person other than to those referred in precedent paragraph, and can show the following documents:

1. The document from those that have the parental authority or custody which authorizes the transportation abroad, granted before a Mexican notary public; or

2. The document issued by the authority empowered to do so. This document should be in the format stated by the immigration authority to such effect through the administrative provisions, as published in the Official Journal.

Documents issued abroad must be legalized or apostilled as required, and must be translated in case of a language other than Spanish.

VI. to IX...”

AUTHORIZATION GRANTED BEFORE NOTARY PUBLIC.

The modifications made to RIL entered in full force on January 1, 2014; in that sense, from this date all international carriers must require and verify that minors or persons in legal custody accompanied by a legal age third person or traveling alone, have an authorization granted by those that have the parental authority or custody, before a notary public, plus all applicable formalities in case of documents issued abroad in any language other than Spanish.

THE FORM.

It was January 3, 2014 when the National Immigration Institute (NII) published the official form referred in number 2 of the paragraph b) of section V of the article 42 of the RIL¹; however, this form entered in full force on January 24, 2014 which means that no other option to the authorization granted before notary public plus applicable formalities in case of documents issued abroad and/or in any language other than to Spanish, was available from January 1 to 24.

The form issued by the NII seems to be very friendly and it is made up of five sections:

- Section 1. Elaboration date.
- Section 2. Personal data of the children, adolescents or persons in custody, based on the passport information or valid travel document with a signature or finger print.
- Section 3. Personal data and copy of the evidence of the parental authority or custody, with a signature or finger print.
- Section 4. Flight information.
- Section 5. Personal data of the legal age third person who will travel accompany the children, adolescents or persons in custody, if applicable, with a signature or finger print.

FINES.

The changes to article 247 of the RIL was just aimed to ensure that the article referring to the obligation to verify that minors or persons in legal custody, accompanied by a legal age third person or traveling alone has the required documentation to be transported from abroad, and will be specified to international carriers. Article 247 of the RIL establishes a fine from one thousand to ten thousand times of the current minimum wage in Mexico City, which amounts to a fine of approximately USD5,200 to USD52,000 to any carrier that allows the transportation of each minor without required documents stated in article 42 section V of the RIL.

Taking in to account that these procedures are not conducted by the carriers, it is important to mention that these requirements are not easy handled by those who have the parental authority or custody of the passenger. If the parents or the authorized person decides to grant the authorization before notary public, they will incur several additional expenses over and above the flight ticket, while resulting in a faster option to authorize a minor to travel alone. This is however makes no sense, because in order to be accepted by the carrier, the immigration form must be filed for approval before the National Immigration Institute local offices at the specific departure airport, and must be filed by both parents or by the person who has the parental authority or custody of minors in three copies, attaching copies of the official ID or the evidence of the parental authority or custody, for its analysis and approval by the local immigration authority.

1.- Available if requested to marellano@asyv.com

Canada-Mexico air travel accord set to boost tourism and business links.

Canada and Mexico are putting new air travel measures in place that should boost tourism and business opportunities between the two countries, Mexico's ambassador says. Francisco Suarez said the change is among the initiatives that could come up when Prime Minister Stephen Harper and Mexican President Enrique Peña Nieto meet. The two leaders will be joined by U.S. President Barack Obama for a trilateral summit that is expected to focus on economic cooperation. *The Globe and Mail. February 10, 2014.*

Revision of Third & Fourth Freedoms.

Mexico's Federal Government has declared that it will not move forward with an "open skies" policy, in order to increase the arrival of tourists and merchandise into the country. However, the government will reinforce several bilateral treaties on open skies policy, stated Alejandro Argudín head of the Aeronautical General Agency. The government stated that they are to revise the third and fourth freedoms of the air, in order to achieve a full relationship with international flights. *El Informador. February 14, 2014.*

Airlines would pay more for lost luggage.

Members guarantee increases to 200 days of minimum wages as compensation for loss or damage of passengers' luggage. The Chamber of Deputies endorsed changes which mean an increase from 75 to 200 days of minimum wage compensation that airlines must pay when they lose or cause any damage to luggage, equivalent to about 12,800 pesos. The full legislature in regular session adopted the reform to Articles 3, 4, 62, 64 and 68 of the Civil Aviation Act and turned this over to the co-legislator for analysis and eventual ratification. Current law provides an equivalent to 75 days minimum wage in case of loss or damage to baggage. According to the document, one of the most common complaints from airlines users is the theft of valuable items in luggage or total disappearance of baggage that often is not recovered. *El Universal. February 16, 2014.*

Mexico's international passenger traffic increases.

Mexico's airport operators are all reporting increased traffic in January over the same period in 2013. Mexican airport operator Aeropuertos del Sureste (ASUR) reports an 8.4% increase in international passenger traffic at the nine airports it operates throughout southern Mexico. Cancún International Airport saw an increase of 7.7% in international travellers in January. Cozumel airport reports a 32.5% increase in international travellers in January, with more than 42,000 passengers. Grupo Aeroportuario del Pacífico (GAP) reports a 15.7% increase in international passengers at its 12 airports. More than 271,000 international passengers used Guadalajara's international airport in January, an increase of 18.7% over the previous January. Grupo Aeroportuario del Centro Norte (OMA) reports international traffic increased 7.2% in seven of its airports in January. *The Latin America Report. February 18, 2014.*

ALTA Member Airlines Carry Over 160 Million Passengers in 2013.

The Latin American and Caribbean Air Transport Association (ALTA) announced that its member airlines carried 160.9 million passengers in 2013, up 6.5% from the previous year. Traffic (RPK) grew 7.2% and capacity (ASK) increased 5.4%, bringing up the load factor to 77.7%, 1.3 percentage points higher than in 2012. Eduardo Iglesias, ALTA's Executive Director, remarked, "ALTA member airlines transported almost 10 million more passengers in 2013 compared to 2012, reaching a total of nearly 161 million passengers, 90% of whom travelled domestically and/or intra-regionally within Latin America and the Caribbean. These figures validate the projections of the expansion of aviation in the region and support the urgent need for investment in infrastructure in the short and medium term allowing the industry to realize the potential for growth." *ALTA. February 20, 2014.*

Aviation business boom.

Aviation business has seen an increase in passenger numbers and a major increase in commercial air service demand over the past decades. The Deloitte 2014 Global Aerospace & Defense Outlook declares in its last study that the number of passengers have increased by 298% in the last 30 years. According to the study, over the next few years, the aviation business may see a further increase of 25% for flights and aircraft requirements. Since 1981, aircraft production by global manufacturers has doubled. *February 20, 2014.*

In this month extract was prepared by Vera García, Patricia González, Mauricio Castillo, José Manuel Muñoz and Miguel Ruelas.

Who is responsible for Mexicana de Aviación's financial melt-down?

The former owner of Mexicana de Aviación, the company that was declared bankrupt in 2010 after an "unsolvable" financial crisis, is being searched for by Mexico's General Attorney. The Mexican authorities have a search warrant against the millionaire for using illegal funds and resources, discovered after an investigation of Mexicana de Aviación's financial records demonstrated fiscal evasion. Even though the situation is shocking, after the turmoil that the company has undergone, some suggest a positive approach in order to reactivate the airline by September of this year. *CNN Expansion México. February 25, 2014.*

Bancomext announces the start of Mexicana aircraft sales.

Director of Bancomext, Enrique de la Madrid, who is in the process of selling Mexicana's nine aircraft, said that the resources obtained from the sale will be used to fund the trust created to pay the workers. Enrique de la Madrid recommended the sale of these aircraft, although there is still a series of administrative items pending. He added that so far they have a potential buyer, but he is sure that there will be more, as the aircraft are in good condition and due to interest in the aviation market for buying equipment, the sale process will not be complicated. *Hangar Central. February 26, 2014.*

Airbus to step up A320 plane production.

Europe's largest aerospace group, Airbus, has announced a rise in full-year profits and says it will increase output of its A320 jets. Net income rose 21% to 3.6bn euros (\$5bn; £3bn) in 2013, a year when Airbus delivered a record 626 planes. Revenues rose 5% to 59.3bn euros. Airbus said it expected to deliver a similar number of planes this year. It also announced it would increase production of its A320 jets to 46 planes a month from 42 by 2016. *BBC News February 26, 2014.*

U.S. Export-Import Bank Tops \$1B in Financing for American-made Business Aircraft.

The U.S. Export-Import Bank recently topped \$1 billion in support of American-made business airplane and helicopter financing since the beginning of Fiscal Year 2012. In a deal that drove it past this milestone, the bank approved a guarantee of a \$300 million loan extended by Apple Bank for Savings to Minsheng Financial Leasing Co. of Tianjin, China, to finance the purchase of eight business jets from Gulfstream Aerospace. At EBACE 2012, the Ex-Im Bank announced it would provide support for at least \$1 billion in business airplane and helicopter financings by the end of 2014. *AIN News. February 27, 2014.*

Guanajuato International Airport will receive its first cargo flight.

Guanajuato International Airport will receive its first cargo flight, as part of its strategy to focus on companies located in the Guanajuato Inland Port. The airline responsible for giving opening this route will Aerounion with an Airbus A300, which has a cargo capacity of 44 tones. The cargo flight was established because of the economic development that has happened across the region in recent years. The frequency of Aerounion's cargo flight will be weekly, in response to the demand by both domestic and foreign companies. *Hangar Central. February 28, 2014.*

New Airport for one of Mexico's biggest touristic centers.

With a total investment of 1.269 billion pesos, the International Airport of Palanque was inaugurated by the President. President Enrique Peña Nieto and the governor of Chiapas restated the importance of this major enterprise. The infrastructure provided with both federal and local funds, will provide connections by air to southern Mexico, a big boost to the tourism sector and a great opportunity for economic growth for one of Mexico's most marginalized states. The new airport, apart from providing direct international service to Mexico's famous Palenque Mayan ruins landmark, represents positive growth for Mexico's air connections and developments. *La Jornada. February 28, 2014.*

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