



VII AIRPORT LAW WORLDWIDE CONFERENCE

In September 2007, together with Aram Chouldjian (chul) we went to Prague. Two airport lawyers from different shores of Rio de la Plata attended an ACI workshop along with other airport colleague lawyers from the non-European Union countries.

We shared the same eagerness to know the legal aspects of airport operation in the European Union.

On the shores of the Vltava River, by the end of the first day of the workshop, we came to the conclusion that the aeronautical law was not enough, and even to some extent might seem to be not applicable, to solve many of the daily problems raised by the airport operation and airport service.

The following day, by we were heading up to Mala Strana, we were absolutely certain that the airport had evolved from every point of view. However, the airport was still “orphan” from the legal aspect standpoint.

At Charle’s bridge, we learnt that it was sort of “Kafkaesque” to insist on seeking for legal asylum for airport services within the framework of the legislation, judicial precedents and doctrine that built up the classic aeronautical law. Being able to make the aeronautical law to incorporate to its legal rationale the interests, principles and rules that the States demand from the airport service providers, still is, even these days, an adventure that not even the great *Jaroslav Hasek* would have assigned to the *good soldier Svejik*.

The *good soldier Svejik* was fortunate to know the first aerodromes that had been already built by the outbreak of the First World War in the 20th century. Don Quixote did not have that chance. In any event, should this nobleman had seen something similar to an airport, it was certainly not other thing but another windmill.

But in 2008, in a place in La Mancha, the name of which now I DO want to remember, Ciudad Real, the Government of Castilla was about to complete the construction of an airport that would connect passengers to a high

speed train heading north and from which, they would get off some minutes later in Atocha, Madrid.

To that city, Ciudad Real, the airport lawyers that joined before in Prague were invited to go and together with other lawyers and airport experts from other countries, we held the first -and the second- worldwide conference on airport law. And as it is in our nature, being lawyers, we could not help creating an association for this purpose. And that's how WALA was born.

And life went on...and the other 4 legal airport conferences happened, the next one in *Lisbon*, sponsored by ANA Aeroportos de Portugal, then in *Dallas*, sponsored by Dallas-FortWorth airport; then in *Amsterdam*, sponsored by Schiphol Group; and in *Montreal* under the sponsorship of Aeroportos de Montreal.

After all that, more than 600 attendees from 86 entities from the 5 continents were registered. There were 107 -legal and technical- presentations with main focus on the airport problems and difficulties, performed by 104 experts from different fields.

Now, here we are, at the 7th worldwide conference, in the city of Buenos Aires, promoting what we call the "Airport Law".

The primitive notion of aeronautical infrastructure underwent a metamorphosis between 1900 and 1990 (*the butterfly effect*). In that process, we went through the *mere use* of an airport like Humphrey Bogart does in Casablanca, to the *airport service* that U2 *enjoys* at the brand-new Charles de Gaulle in Paris. In 2014, we are already noticing that this evolution is leading to another radical transformation.

Which was the role of the specialized legal science in the development of this transformation?

In the common-law countries, the *airport law* was early developed, and the legal airport framework inherent to airport operations was specially addressed. For instance, USA actually did.

In those States with romano-germanic legal systems, the aeronautical law embraced the concept of aeronautical infrastructure. But as the legislator decided to create the legal institution of "airport service" and "public airport service", he would set the foundations for a particular and new legal framework.

This new legal framework, in most aspects and to the extent of the pursued public interest, is integral to the civil aviation law (legitimization). And in many cases, it even exceeds it. This is true to such an extent that new actors with new values, new rules, new principles appeared on scene.

Obviously, this new legal and axiological reality caused a big fuss. A significant impact on both, the air transport and the air transport service provider.

At present, airports, airport services, airport operators, States, airport policies, airport users (passengers, meeters and greeters) and any kind of airport related service providers have assumed a new legal leading role. Now they are part of the cast with air transport, aircrafts and airlines (or air transport operators).

We have plenty of reasons to try to explain the rationale behind such denial. But there are two main reasons that are very clear: (i) the vision of the airport service as an *air transport cost item* and (ii) the absence of *legal uniformity* for the States to rule the airport service.

This illustrates the challenge of WALA and of these international conferences: Promoting, from a new and modern standpoint, the legal institutions that link the airport service to the airport operators, users, service providers, authorities, etc.

In his book *Justice for Hedgehogs*, *Ronald Dworkin* bases his thesis on justice and morality, ethics and political morality values and grants to “interpretation” a major role in the construction of such values.

There, inspired by the ancient Greek poet *Archilochus*, Ronald Dworking quotes one of his verses: *The fox knows many things, but the hedgehog knows one big thing.*

What the hedgehog knows is the airport law. That big thing, that studies the rules and legal framework of the service provided by the airport, important and vital for civil aviation and for its enormous development, and which has significantly contributed and still contributes to the development of the nations and world economies.

Ronald Dworkin, born in Massachusetts, who took rights seriously, was used to swimming against the tide. With his thesis, he would often lead to causing ruptures in the dominant philosophy doctrine and in the philosophy

of law. And with this work, *Justice for Hedgehogs*, he recognizes that his jusphilosophical thesis is unpopular now, that it has few supporters and he states: ***“The foxes have ruled the roost in academic and literary philosophy for many decades, and the hedgehogs seem naïve or charlatans, perhaps even dangerous”***.

These days, in this wonderful and contradictory Buenos Aires, my place in the world, the airport law is making its own way between dominant voices that regard it as, let’s say, *unpopular*. At least, in the dominant academic and literary aeronautical law of Latin America, the fox is also ruling the roost and we, the hedgehogs, seem to be the *naïve ones or charlatans*. Though I don’t think we fall under the *dangerous* ones.

Stick to his convictions, fair and strict, Ronald Dworkin said: ***“It is the fox who wins too easily: it is his apparent victory, now widely celebrated, that is hollow”***.

I take that vision from Doctor Honoris Causa by the Universidad de Buenos Aires and I apply it to the civil aviation field: The apparent victory of those who consider the airport law as unpopular, if it’s not already hollow, soon will be.

Welcome. Thanks very much.

Diego R. Gonzalez
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