

1937

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Recommended Citation

James L. Brown, *Regulation of Air Navigation in Venezuela*, 8 J. AIR L. & COM. 577 (1937)
<https://scholar.smu.edu/jalc/vol8/iss4/4>

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REGULATION OF AIR NAVIGATION IN VENEZUELA

JAMES L. BROWN*

The present law which regulates civil aviation in Venezuela was enacted on October 16, 1936,¹ and replaces the former legislation of July 25, 1930.

Until 1925 when a German hydroplane visited Venezuela there was very little development of aviation in that country. The first regular mail and passenger service was established by a French company in April, 1930. The Pan American Airways, Inc., established a mail and passenger service to Venezuela in May of the same year.

While the new law places civil aviation under the jurisdiction of the Ministry of Communications, a post recently created in Venezuela, close contact in matters of aviation is to be maintained with the Ministry of War and Marine² under whose direction military aerial navigation is placed.³ In drafting regulations the Ministry of Communications will consult with the Ministry of War and Marine in those matters relating to national security.⁴

Civil aviation is stated to include aerial transportation of persons as well as mails and other objects whether such transportation is gratis or subject to a charge. It includes the use of aircraft for purposes of advertising, exhibition, sport, photography, photometry, and for any commercial purpose whatsoever.⁵

Atmospheric space is not susceptible of private ownership,⁶ complete sovereignty over atmospheric space above land and territorial waters being exercised by the Republic.⁷

The law establishes an Office of Aeronautics under the Ministry of Communications which is charged with the administration and supervision of matters relating to civil aeronautics.⁸

The supervision which will be exercised over civil aviation includes:

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1. GACETA OFICIAL, October 23, 1936.
2. Article 1.
3. Article 4.
4. Article 4.
5. Article 1.
6. Article 3.
7. Article 2.
8. Article 61.

(a) The inspection of books aboard airplanes and the documents thereof and those of the crew.

(b) Determination of the advisability of subsidizing existing or potential air lines.

(c) Declaration of air lines engaged in general service as public utilities.

(d) Decision as to the admissibility of foreign certificates of aerial navigation and qualification.

(e) Approval of rates and other charges, and security bonds of public air navigation services.

(f) Issuance of orders requiring the landing and capture of foreign aircraft not equipped with required radio apparatus.

Decisions on (b), (c), and (d) must be approved by the Federal Executive (The President) at a cabinet meeting.⁹

The law grants authority for the establishment and maintenance of schools of civil aviation.¹⁰

Air Service Lines

The Ministry of Communications may negotiate agreements for the operation of air lines and if these are favorably reported on by the Ministry of War and Marine, the Federal Executive will order their establishment. These agreements may not cover a period of operation in excess of five years but they may be renewed. They must contain provisions for the training of personnel for use in military aviation and be reported upon annually to the Legislature.¹¹

Air lines are classified for State, general, or private service.¹² Those lines intended for State service must be operated by government personnel and equipped with government apparatus and material. They may only be used for official service.¹³ Lines devoted to General service are engaged in the public transportation of passengers, mail, and merchandise while those devoted exclusively to the service of private individuals or companies are designated private lines.

The Government may form corporations to establish and operate general service lines subscribing 51% to their capital.¹⁴

General service lines which use Venezuelan planes exclusively

9. Article 60.
10. Article 60.
11. Article 10.
12. Article 27.
13. Article 28.
14. Article 29.

may be declared by the Federal Executive to be public utilities.¹⁵ However, those lines which are not declared public utilities may, if authorized, engage in the transportation of passengers, mail, and merchandise.¹⁶

The Government may subsidize any line engaged in general service in exchange for facilities to train Venezuelan aviation personnel or for any other advantage.¹⁷

Airport and Airdrome Facilities

Airports are styled as land, water, or mixed and these may be either official or private. Official airports are either civil or military and are the property of the government under the jurisdiction of the Federal Executive. Private airports are subject to the supervision and control of the government through the Ministries of War and Marine and of Communications and may be used by military airplanes without any remuneration to their owners.¹⁸

The Federal Executive is empowered to establish such airports as he may deem necessary and to appoint the public officers required for the clearance of airplanes.¹⁹

In time of peace military pilots in using civil airport facilities must be guided by the rules governing civil aviation. Any infractions of such rules may be the subject of complaint to the Ministry of War and Marine by the Ministry of Communications.²⁰

Civil aerodromes may not be used for service until authority therefor has been granted by the Ministry of Communications. This authority will only be granted after the aerodrome has been inspected and found to meet the requirements of the law.²¹

Requirements Respecting Airplanes

Airplanes are stated to include all apparatus capable of transporting persons or objects by air. If not used for military purposes, they are subject to the provisions of law regulating civil aviation.²²

Hydroplanes and amphibions while resting or moving on the water or being carried on the water are subject to the laws governing maritime navigation.²³

Airplanes used by national or foreign airlines must be air-

15. Article 30.
16. Article 31.
17. Article 32.
18. Article 17.
19. Article 54.
20. Article 4.
21. Article 59.
22. Article 19.
23. Article 18.

worthy in order to safeguard the life of persons to be transported therein. In order that records may be maintained with regard to replacement requirements of those airplanes which have reached a maximum of service, their owners must furnish a manufacturer's certificate of service qualification and durability.²⁴

Only those airplanes which are owned by Venezuelan individuals or companies or which are so considered may be matriculated in the register as Venezuelan.²⁵

Those airplanes which are registered in another country may not be registered in Venezuela until the foreign registration has been cancelled.²⁶ However, due record must be made of every airplane engaged in service in Venezuela,²⁷ and this record must be made whether the service is regular or irregular.²⁸

There is maintained in the Office of Aeronautics a book in which is recorded all airplanes in Venezuelan territory, whether in use or in warehouses or repair shops.²⁹

All Venezuelan airplanes with the exception of those classed as military, must be registered.³⁰ Airplanes to be considered as of Venezuelan nationality must be accordingly recorded in the Aerial Register.³¹

Title of Ownership

The ownership of airplanes is conveyed by a public deed, which must be recorded in the Register of Inscription with appropriate note as to whether it is of Venezuelan or foreign nationality.³²

Radio Equipment

In addition to the required books which must be carried by every airplane which flies within Venezuelan territory,³³ those airplanes which are used in regular and continuous passenger service must be provided with complete radio equipment.³⁴

Transportation of Mail

Mail may only be transported by airplanes duly authorized for that purpose.³⁵

24. Article 57.
25. Article 50.
26. Article 51.
27. Article 20.
28. Article 34.
29. Article 49.
30. Article 53.
31. Article 48.
32. Article 52.
33. Article 24.
34. Article 23.
35. Article 22.

Transportation of War Material

Transportation of war material by means of civil aircraft may only be made by the Ministry of War and Marine.

Explosives may only be transported upon authorization of the Ministry of War and Marine. Aircraft carrying explosives may not fly over inhabited localities and may not carry passengers during the same flight. Each member of the crew of aircraft carrying explosives must be notified thereof before departure of the plane.

Firearms and cartridges may only be transported by aircraft through the mails or by delivery to the airport where they will be packed and sealed and delivered to the pilot, who will upon the termination of the flight, deliver them to the consignee.³⁶

Transportation of Photographs and Photographic Material

Photographs may only be taken by the official services of aerial photography and photometry. Private individuals may upon payment of the prescribed charges obtain photographs through these official services.

Aerial transportation of photographic apparatus of any kind whatever may only be made through the mails or by delivery by the sender at the airport of departure where it will be packed and sealed for delivery to the pilot for delivery to the consignee at the termination of the flight.³⁷

Rules of Flight

Venezuelan or foreign aircraft may, in time of peace, fly over, land, and depart from the territorial confines of the country in accordance with the provisions of law.³⁸ The government may deny this privilege to foreign aircraft when it so desires.³⁹

Venezuelan aircraft will not be allowed to engage in air navigation except where authorized to do so by a general or special permit from the Federal Executive issued through the Ministry of Communications and based upon a report from the Ministry of War and Marine.

Foreign aircraft, whether official or private, must comply with the provisions of Venezuelan laws unless provision is made otherwise in conventions to which Venezuela is a party.⁴⁰

36. Article 14.
37. Article 13.
38. Article 6.
39. Article 5.
40. Article 9.

The Federal Executive may reserve, at any time, for Venezuelan aircraft exclusive internal transportation service. A clause to that effect will be considered as incorporated in every contract entered into with foreign companies engaged in internal air transport service. Accordingly, such Executive action will not give rise to any claims on the part of foreign companies engaged in internal service.⁴¹

Border Points of Entry and Departure

Aircraft may only enter and leave the national territory at those border points fixed by the Federal Executive.⁴²

Clearance of Airplanes

Customhouse officials and police authorities are required to give preference to the clearance of airplanes upon arrival and departure.⁴³

Unless otherwise provided for in specific regulations relating to the requirements for clearance of cargo and passengers transported by airplane engaged in import and export traffic, the provisions of customs, fiscal, sanitary and police laws and regulations established for ordinary navigation will be extended where applicable to aerial navigation.⁴⁴

Airplanes flying between points in Venezuelan territory need only be cleared by the civil authority at the point of departure.

Airplanes of companies which have entered into contracts with the Federal Executive, are required only to have the proper flight permit for each passenger in order to start their flight.⁴⁵

Customs Duties Exemptions

The Federal Executive may grant to aerial navigation lines, established in Venezuela, an exemption from the payment of customs duties on material, apparatus, and fuel employed in their flights not exceeding 50%.⁴⁶

Permit for Flight Required

Airplanes which cross the national territory in flights which

41. Article 11.
42. Article 15.
43. Article 55.
44. Article 56.
45. Article 57.
46. Article 53.

are not of a regular or continuous service must have a special permit therefor.⁴⁷

Foreign airplanes, except those which are official planes, which fly over national territory in a flight which does not constitute a regular continuous service must be provided with a special permit which must be presented to the authorities for inspection on demand. This permit may be obtained from the Office of Aeronautics upon request. In addition to this permit the plane must be provided with its charter, and such books and documents as may be required by the laws of the country of nationality of the plane. Airplanes which are not provided with these documents are subject to confiscation upon proof that they have been lost.⁴⁸

Certificates of Navigation

Every airplane, with the exception of those belonging to the army, which flies over national territory must be provided with a certificate of navigation.⁴⁹

The Ministry of Communications acting under the direction of the Federal Executive, issued an order as of May 26, 1937, to the following effect:

Certificates of navigation issued to aircraft and flight certificates issued to pilots by foreign governments, will be recognized in Venezuela for the length of time and under the conditions they were acquired in the country of origin, with respect to airplanes and pilots who cross the national territory in transit or in regular flights or on an international route. However, the provisions of this order do not exempt the airplane or its personnel from the provisions of the law requiring the inspection of their books and documents.

Foreign Official Airplanes

Unless otherwise provided in conventions, official foreign airplanes may not fly over Venezuelan territory without a special permit from the Venezuelan Government or an invitation from the competent Venezuelan authorities, which must be agreed to by the Ministry of War and Marine.⁵⁰

Safety Requirements

All aircraft may be obliged to land for reasons of public safety, and this must be done just as soon as the Venezuelan authorities

47. Article 20.

48. Article 33.

49. Article 21.

50. Article 26.

give the order by making the proper signal,⁵¹ and they may not fly over cities at a lesser height than that necessary to enable them to land outside the city in case of emergency.⁵² Aircraft will be prohibited access to those zones which for military reasons or for public safety are so designated by the Federal Executive.⁵³

Entering Forbidden Zones

The Ministry of War and Marine is empowered under the law to take necessary measures in order to effect the landing and capture of any airplane which crosses Venezuelan frontiers or established military zones without a special permit.⁵⁴

War and Emergency

The Federal Executive may in case of war or threat to the public peace, or when deemed necessary for protection of the public health, suspend totally or partially existing transit of aircraft and establish an alternative route of transit as well as landing or alighting points. Failure to comply with orders issued in this regard will result in confiscation of the aircraft and the imposition of a fine upon the guilty person ranging from 500 to 20,000 bolivares.⁵⁵

War material is deemed to include aircraft, and their accessories, instruments, machines, apparatus, tools, documents and everything contained in the aircraft regardless of origin or the purpose for which they are intended. In case of war they may be subject to expropriation, internment, or destruction.⁵⁶

International Flight Permit Requirements

The owner or pilot of an airplane, which does not belong to regular lines, who intends to engage in an international flight must apply for a permit therefor to the Ministry of Communications, giving the object of the flight, route, the names of persons to accompany the pilot, and all other details and circumstances of the flight. The Ministry may grant the permit providing the machine and the flyers are sufficiently qualified to make the flight.⁵⁷

51. Article 16.
52. Article 25.
53. Article 12.
54. Article 64.
55. Article 7.
56. Article 8.
57. Article 37.

Liability for Damage

The carrier is liable for damages resulting from injuries to passengers and to cargo. However, there may be a limitation of its responsibility in this regard upon proof that it complied with all requirements of the law and took appropriate precautions to avoid the injury.⁵⁸ Under the same conditions it is liable for damages to passengers and cargo occasioned by the crew.⁵⁹

The amount of damages for which the carrier is liable for injury to a passenger may not exceed twenty thousand bolivares. The liability in connection with injury to cargo is determined according to the provisions of the Civil Code governing maritime transportation. The passenger or shipper may upon payment of an increased premium agree on a greater indemnity.⁶⁰

The carrier is liable for damages caused by injury to persons or objects on land or territorial waters. Damages in such cases will be governed by the provisions of law pertinent to the subject.⁶¹

Liability with Respect to Mail

The liability of the aircarrier with respect to the transportation of mail by air is limited to that assumed by the Postal Authority with the public in accordance with the provisions of the Postal Regulations.⁶²

Liability of Crew and Passengers

Members of the crew and passengers of airplanes are criminally and civilly liable for losses and damages which they cause in throwing objects from the said airplanes.⁶³

Throwing Ballast from Airplanes

When proper precautions are taken, ballast consisting of materials which may do no harm to persons or properties on the ground below may be thrown from airplanes in case of emergency or danger justifying such action.⁶⁴

Actions for Damages

In case of death of a passenger, due to an airplane accident, the filing of a suit for damages shall devolve upon the heirs.⁶⁵

58. Article 38.
59. Article 39.
60. Article 40.
61. Article 44.
62. Article 47.
63. Article 45.
64. Article 46.
65. Article 42.

Actions for aerial losses and damages are debarred one year after the act that causes them.⁶⁶

All suits arising from an aerial transportation contract shall be under the jurisdiction of the Courts of Venezuela.⁶⁷

Penalties

Violations of the provisions of this law, unless otherwise provided for therein, will be punished with a fine of from 500 to 10,000 bolivares or proportional imprisonment in addition to the withdrawal permit of navigation from the guilty owner or company.⁶⁸

66. Article 43.

67. Article 44.

68. Article 63.