

# Panama

Felipe Escalona

Delvalle, Escalona, Levy & Corró

## REGULATORY FRAMEWORK

### Regulators and primary legislation

1 | Which bodies regulate aviation in your country? Under what basic laws?

The main body regulating aviation in Panama is the Civil Aviation Authority (AAC), an independent government entity. This entity was created by Law No. 22 of 29 January 2003.

Nonetheless, the principal legislation for aviation in the Republic of Panama is Law No. 21 of 29 January 2003, which regulates all civil aviation activities in Panama.

Other relevant regulations that apply to aviation are the following:

- Civil Aviation Regulations of Panama, a compendium of 37 books, which contains all the technical and regulatory aspects applicable to civil aviation in Panama; and
- Law No. 23 of 29 of January 2003, which is the regulatory framework for the administration of airports.

Further, Panama has adopted multilateral conventions on aviation, such as the Convention on International Civil Aviation of Chicago of 7 December 1944, by means of Law No. 52 of 30 November 1959, and the Agreement Related to International Air Transportation Services of Chicago of 7 December 1944, by means of Law No. 15 of 9 November 1981.

Panama also adopted the Convention on International Interest in Mobile Equipment of 16 November 2001 of Cape Town, and its Protocol, through Law No. 29 of 26 March 2003.

## AVIATION OPERATIONS

### Safety regulations

2 | How is air transport regulated in terms of safety?

The Civil Aviation Authority (AAC) is the entity that administers air safety in Panama. It is in charge of regulating air transportation services. It monitors and provides air traffic control services, operational and airport safety and certification of airstrips, including regulations, planning, operation, surveillance and control. The principal piece of legislation governing air safety in Panama is Law No. 21 of 29 January 2003.

3 | What safety regulation is provided for air operations that do not constitute public or commercial transport, and how is the distinction made?

Private operations and aerial work are both regulated by Law No. 21 of 29 January 2003. However, there are several books of the Civil Aviation Regulations of Panama that also regulate such activities, and which are mandatory. The distinction is made in article 72 of Law No. 21 of 29 January 2003, which clearly states that commercial air services may be

for public transport or aerial work. The first consists of the transportation of people or cargo, while the second includes all the other commercial air activities that may be carried out with aircraft.

### Market access

4 | How is access to the market for the provision of air transport services regulated?

Access to the market for the provision of air transport services is regulated by Law No. 21 of 29 January 2003 and Book XXIV of the Civil Aviation Regulations of Panama. The air operator certificates to provide air transport within the Panamanian territory are reserved for national investors, and its operational base must be in Panama. If the applicant is a legal person, it must be proved to the Civil Aviation Authority that Panamanians hold the substantial property and effective control of the company.

Specifically, the law requires that: (1) at least 60 per cent of the issued and outstanding capital in a carrier offering domestic services, be owned by Panamanians; and (2) if the carrier is only offering international services from Panama, at least 51 per cent of the issued and outstanding capital should be owned by Panamanians. In both cases, the shares must be nominative and have the right to vote.

National carriers will have access to international air transport according to the international bilateral agreements signed by Panama to the extent such carrier has sufficient guarantees of administrative, technical and financial capacity to provide such services. In the absence of international conventions or bilateral agreements, access will be adjusted via the reciprocity principle. The latter also applies to a foreign carrier wishing to operate in Panama.

### Ownership and control

5 | What requirements apply in the areas of financial fitness and nationality of ownership regarding control of air carriers?

Book XXIV of the Civil Aviation Regulations of Panama states that the AAC must determine if the applicants for an air operator certificate have the financial stability and technical capacity to provide the services they are requesting.

Ownership of national carriers offering domestic and international services is restricted to national investors with the specific percentage ownerships (at least 60 per cent for domestic services and 51 per cent for international services). Panamanians must exercise the effective control of the carrier, and for such effects:

- the shares must be nominative shares in the name of the Panamanians;
- Panamanians must also exercise the right to vote on such shares;
- the board of directors or administrative body must be composed, in its majority, of Panamanians;
- all the modifications or amendments to the airline's articles of incorporation must be handled by Panamanians; and

- the domicile or the place where the main decisions are made must be in Panama.

According to local laws, if the shares of a national carrier are publicly traded in a domestic or foreign recognised stock exchange, a different method to prove the substantial property and effective control would apply.

## Licensing

### 6 | What procedures are there to obtain licences or other rights to operate particular routes?

According to Book XV of the Civil Aviation Regulations of Panama, any national carrier that requests the AAC's approval of a route must demonstrate that:

- it is capable of fulfilling the operation of a specific route, even if it is a regular route, a provisional one, a technical stop or a segment of the route;
- a level of safety can be guaranteed for the route's transit density; and
- it has appropriate arrangements for ground handling and facilities at each airport from which it desires to operate, in addition to maintenance services for the aircraft.

In the case of international transport, Panama will grant traffic rights to foreign carriers under the international bilateral or multilateral aviation agreement and treaties signed with the specific country. In the absence of an international agreement, access will be adjusted via the reciprocity principle.

### 7 | What procedures are there for hearing or deciding contested applications for licences or other rights to operate particular routes?

Denial of an application for a licence or other rights will be through an administrative resolution issued by the AAC, which may be challenged before the same body. If the results of such reconsideration remain unfavourable, the plaintiff will be able to appeal before the Third Chamber of the Supreme Court of Justice for a final decision.

## Competition policy

### 8 | Is there a declared policy on airline access or competition? What is it?

Panama is a very open country in terms of air policies. In that sense, it has entered into a significant number of bilateral aviation agreements and memoranda of understanding with aviation regulatory entities from other jurisdictions.

Among the countries with which Panama has executed such agreements are: Canada, the United States, Mexico, Guatemala, Honduras, Nicaragua, Costa Rica, Dominican Republic, Barbados, Trinidad and Tobago, Aruba, Curacao, Jamaica, Colombia, Venezuela, Ecuador, Peru, Brazil, Bolivia, Argentina, Chile, Paraguay, Uruguay, the European Union, Spain, Portugal, France, Germany, Switzerland, Belgium, the Netherlands, the United Kingdom, Russia, China, Singapore, Turkey, Taiwan, South Korea, Qatar, Morocco and the United Arab Emirates.

## Requirements for foreign carriers

### 9 | What requirements must a foreign air carrier satisfy to operate in your country?

Any foreign carrier that desires to operate a route to Panama must register a branch in the Public Registry of Panama and also obtain

an air operator certificate issued by the Transportation Department of the AAC.

The air operator certificate will be granted once the carrier meets the following requirements:

- When a treaty or agreement with the state of the applicant carrier exists, the designation, operating certificate and other administrative aspects will be subject in the first place to the provisions stated in such agreement or treaty and then to the laws and regulations on the matter.
- Where there is no treaty or agreement, the air operator certificate may be granted based on public convenience, public safety, the economic interest of the air transportation industry, existing international conventions or agreements and the reciprocity principle.
- The application certificate to set up an international public transportation operation in Panama, whether or not a treaty or agreement exists, must be filed before the AAC through a local legal representative (attorney-in-fact), in Spanish, and shall contain the following information and documentation:
  - the company name (with the clarification of the trade name, if any) and legal address;
  - proof of the existence of the company under the laws of its incorporation, the establishment of a domicile in Panama, and the appointment of a legal representative in the country. The incorporation document and any amendments to that, including the designation if its legal representatives must be registered with Panamanian Public Registry;
  - the specification of the type of service to be carried out. In the case of regular services, a detailed description of the routes, stops and traffic rights requested in each of the hauls will be required;
  - the designation and certificate of the air carrier operator granted by the flag country of the applicant company, indicating the route or routes requested, in the case of regular services (the designation shall be made via diplomatic means, when applicable);
  - the certified true copy of the air operator certificate or equivalent, issued by the state of the applicant company. A copy of the: (1) technical certification, (2) operation manual, (3) flight manual, (4) maintenance programme, (5) minimum equipment list for the aircraft to be operated, (6) operations specifications, (7) maintenance agreements, (8) airport security plan expected to be performed in Panama, (9) the terms, conditions, limitations and technical specifications approved to operate the requested routes, (10) management programme for dangerous goods, (11) operational manual and (12) security plan;
  - appropriate flight equipment, with an indication of the title under which the airlines hold the character of operator;
  - the description of the net capacity of the aircraft, indicating the number of seats offered;
  - proposed frequencies and timetables;
  - if the route is being operated already, the applicant must provide an analysis of the potential passengers and cargo carried;
  - the power of attorney granted to a local law firm to represent the airline before the AAC in the process of obtaining approval to operate in Panama;
  - proof of compliance with the other legal, administrative, technical and operative requirements applicable at the time; and
  - the documents issued by a foreign authority must be filed duly legalised (through consular means or by the apostille) and those prepared in English must be accompanied by a corresponding translation from an authorised public translator in Panama.

After the AAC grants the certificate of operation, and before the airline starts operations, the company must comply with the following requirements:

- provide the liability and aviation insurance certificate evidencing coverage for the risks established in the international conventions in force on the matter, in the amounts determined thereby;
- the airfares to be applied; and
- other information or documents requested by the AAC during the authorisation process.

Applications from foreign carriers will be processed by public hearing where appropriate following local law, without prejudice to provisions of international conventions in force (confirmation as to the waiver of this requirement pending).

Once the AAC grants the air operator certificate, the foreign carrier is required to comply with all applicable laws in Panama and to provide the AAC with all the information requested regarding applicable regulations.

The air operator certificate has a validity of three years and may be extended indefinitely for the same period.

### Public service obligations

**10 | Are there specific rules in place to ensure aviation services are offered to remote destinations when vital for the local economy?**

There are no specific rules in place to ensure aviation services to remote destinations.

### Charter services

**11 | How are charter services specifically regulated?**

Charter services are regulated by Law No. 21 of 29 January 2003 and the applicable Book in the Civil Aviation Regulations of Panama.

### Regulation of airfares

**12 | How are airfares regulated?**

Airfares are freely determined by airlines. However, national carriers providing local or international air services must request approval of the AAC for the fares they offer register the fares at the Authority according to what is stated in the applicable bilateral aviation agreements. In the case of foreign carriers operating in Panama, if the bilateral aviation agreement states that the airline must register its airfares at the AAC, the airline will have to comply with that provision before publishing the airfares in its sales system.

### Drones

**13 | How is the operation of unmanned aircraft systems (drones) regulated?**

The Civil Aviation Authority implemented, through Resolution No. 120/DSA/DJ/DG/AAC of 16 February 2016, an aeronautical standard identified with the number AAC/DSA/DG/01-16, which contains all the rules for the registration of drones in Panama. This standard is based on article 8 of the Chicago Convention, approved by the Republic of Panama through Law 52 of 30 November 1959.

## AIRCRAFT

### Aircraft register

**14 | Who is entitled to be mentioned in the aircraft register? What requirements or limitations apply to the ownership of an aircraft listed on your country's register?**

Article 29 of Law No. 21 of 29 January 2003 created the Aeronautics National Registry, which is an office of the Civil Aviation Authority (AAC) in charge of keeping and registering licences granted to aeronautical personnel, airworthiness certificates, air operator certificates and air carrier certificates, aircraft registration certificates and other technical agreements.

The agreements related to the use of a foreign registered aircraft by Panamanian operators must also be recorded at the Aeronautics National Registry.

Article 32 of the same law establishes that there will be an aeronautical section in the Public Registry of Panama whereby the following documents must be recorded to become effective against third parties:

- titles over a Panamanian registered aircraft;
- lease agreements that involve a Panamanian registered aircraft; and
- any liens or judicial measures that may affect the title of a Panamanian registered aircraft.

All the above documents must be translated into Spanish by a certified translator, and if they are executed abroad, they must be notarised by a notary public and legalised by a Panamanian consul or apostilled under the 1961 Hague Convention.

Regarding the limitations of nationality, only the following aircraft may be registered at the Aeronautics National Registry:

- aircraft owned by the government of Panama;
- civil aircraft devoted to public transportation or aerial work operated exclusively by Panamanians, either natural or legal persons, legally authorised by the AAC to operate them; or
- civil private aircraft that belong or are operated in Panama by Panamanians or foreign natural or legal persons.

### Mortgage register

**15 | Is there a register of aircraft mortgages or charges? How does it function?**

Yes, any lien that affect the title of a Panamanian registered aircraft must be recorded with the aeronautical section of the Public Registry of Panama, so that it can become effective against third parties. Such a mortgage could be for the whole aircraft or with respect to parts of it only.

The registration fees applicable to aircraft mortgages are calculated at the rate of US\$2.50 for each US\$1,000 or fraction, of the total principal amount secured by the mortgage, with a cap of US\$51,250, plus a flat review fee of US\$100.

Panama is also a party to the International Convention on International Warranties over Movables/Equipment and the Protocol regarding specific issues of Aeronautical Equipment signed in Cape Town on 21 November 2001, as enacted through Law No. 29 of 26 March 2003. That means that as additional protection the lessors or the banks may also record mortgages, titles and lease agreements over Panamanian registered aircraft at the International Registry.

### Detention

**16 | What rights are there to detain aircraft, in respect of unpaid airport or air navigation charges, or other unpaid debts?**

According to article 38 of Law 21 of 29 January 2003, the following claims have priority over all other claims:

- national taxes over the aircraft;
- a mortgage over the aircraft;
- salaries and other social benefits due to the crew of the operator; and
- the amounts owed to the air transport sector, specifically for the operation of the aircraft in its last flight.

The above mean that if any debts are originating from amounts owed to the air transport sector, which could be an unpaid airport or air navigation charges, the AAC will have the power to detain the aircraft until it gets a positive outcome.

### Maintenance

- 17 | Do specific rules regulate the maintenance of aircraft? What are they?

The Civil Aviation Regulations of Panama include several maintenance standards applicable to specific types of aircraft and operations. Law No. 21 of 29 January 2003 also contains several penalties applicable to aviation personnel, operators, owners, etc, for not complying with the maintenance standards or maintenance manuals of the aircraft under their responsibility.

## AIRPORTS

### Ownership

- 18 | Who owns the airports?

Airports in Panama are either public or private owned. Law No. 23 of 29 of January 2003 (which is the regulatory framework for the administration of airports), provides that the government may incorporate companies, wholly owned by the government of Panama, for the sole purpose of operating and administrating the local airports. For instance, the Tocumen International Airport, which is the main and largest airport in Panama, is managed by a corporation called Aeropuerto Internacional de Tocumen, SA, and 100 per cent of its shares are issued in favour of the Panamanian government. This government-owned corporation also owns and manages other international airports, such as Enrique Malek Airport in David, Panama Pacífico in Balboa, Scarlett Martínez Airport in Rio Hato and Enrique A Jimenez in Colón.

However, there are other public airports that are not corporatised, such as Bocas del Toro Isla Colón International Airport, which is managed and operated by the Civil Aviation Authority (AAC). In any case, the AAC is the entity in charge of supervising and certifying every airport or airstrip within Panamanian territory.

### Licensing

- 19 | What system is there for the licensing of airports?

No airport or airstrip may be operated in Panama unless it has its certificate of operation granted by the AAC. Book XXII of the Civil Aviation Regulations of Panama defines the airstrip guidelines and all the requirements to certify an airport in Panama. The validity period of a certificate of operation varies between two and 10 years, depending on the type of certificate to be granted by the AAC.

There are also two books in the Civil Aviation Regulations of Panama that contain all the infrastructure, design specifications and operation safety regulations applicable to an airport.

### Economic regulation

- 20 | Is there a system of economic regulation of airports? How does it function?

Airports managed by Aeropuerto Internacional de Tocumen, SA or by the AAC have their regulations that establish how much the operator will charge for landing fees, lease rentals, concessions fees for providing aeronautic or non-aeronautic services, etc, to airlines or passengers. These airport services charges are paid by the airlines to the airport's operators.

### Access

- 21 | Are there laws or rules restricting or qualifying access to airports?

Every person will have access to the public airports and to the services provided in the airports as long as they meet the requirements and conditions set out in the Civil Aeronautical Authority Regulations.

### Slot allocation

- 22 | How are slots allocated at congested airports?

There are no specific guidelines for allocating a slot. For instance, Aeropuerto Internacional de Tocumen, SA usually assigns the slots by arrival time or as agreed with airlines.

### Ground handling

- 23 | Are there any laws or rules specifically relating to ground handling. What are they?

According to article 99 of Law No. 23 of 29 of January 2003, all ground handling companies must submit for the consideration and approval of the AAC a description and the programme of the services they offer.

Mainly, Book XXIV contains all the requirements to establish a ground handling company in Panama, being one of those, and also a limitation to foreign competitors, to submit a sworn declaration stating that the applicant has at least 60 per cent of its issued and outstanding shares owned by Panamanians.

### Air traffic control

- 24 | Who provides air traffic control services? And how are they regulated?

Air traffic control services are provided exclusively by the Civil Aviation Authority.

## LIABILITY AND ACCIDENTS

### Passengers, baggage and cargo

- 25 | What rules apply in respect of death of, or injury to, passengers or loss or damage to baggage or cargo in respect of domestic carriage?

Title XII of Law No. 23 of 29 January 2003 related to civil liabilities establishes all the general rules applicable to the death and injury of passengers on board an aircraft, as well as damage to baggage or cargo.

Article 157 of the same law establishes certain limits of liability, while article 158 states that the limits created in article 157 shall not apply if it is proven that the damage was the result of an action or omission of the air carrier, the operator or its dependents, with the intention of causing such damage, or with recklessness and knowing that it would possibly cause harm. Panama is also a signatory to the

Montreal Convention of 1999, so the limits of liability contained in this Convention will apply.

### Surface damage

26 | Are there any special rules about the liability of aircraft operators for surface damage? What are they?

Law No. 23 of 29 of January 2003 has a whole chapter that regulates all matters related to the liability of aircraft operators for surface damage (ie, liability, exceptions, concurrent fault or compensation).

### Accident investigation

27 | What system and procedures are in place for the investigation of air accidents?

The procedure to investigate an air accident occurred in Panama is contained in Book XXVI of the Civil Aviation Regulations of Panama, which was issued pursuant to the provisions contained in Annex 13 of the Chicago Convention.

### Accident reporting

28 | Is there a mandatory accident and incident reporting system? How does it operate?

Yes, it is mandatory to investigate any accident or incident that occurred in Panama, regardless of its consequences. Such investigations must be performed as per Book XXVI of the Civil Aviation Regulations of Panama, which was issued according to the provisions contained in Annex 13 of the Chicago Convention.

The primary purpose of an accident or incident investigation consists of determining the probable causes of such event to adopt the necessary measures to avoid its occurrence in the future.

The investigation of an accident is merely technical, and it is performed by a particular unit of the Civil Aviation Authority (AAC), the Office of Investigation of Air Accidents from Panama. The Authority will adopt the necessary measures to protect the evidence available, the custody of the aircraft and its contents, without assuming any responsibility before the operator of the aircraft or against third parties.

Any person who knows of the occurrence of an air accident or the existence of a rest or piece of an aircraft will have to contact the AAC as soon as possible to provide such information.

## COMPETITION LAW

### Competition law

29 | Do sector-specific or general competition rules apply to aviation?

Law No. 45 of 2007 (Panama's Antitrust Law) establishes the general competition rules, which also apply to aviation-related issues in Panama.

### Regulator

30 | Is there a sector-specific regulator, or are competition rules applied by the general competition authority?

Both exist and act depending on the specific issue. The Authority of Consumer Protection and Defence of Competition resolves and maintains administrative competence in all matters involving consumers and airlines. This authority may also play an active role in the merger and acquisition of an airline if the process is submitted to it for approval, or even if it is not submitted, the authority considers that an economic concentration in the market may occur.

On the other hand, the Civil Aviation Authority (AAC) must pre-approve all the commercial or operational collaboration agreements between local airlines or between a local and a foreign carrier.

### Market definition

31 | How is the relevant market for the purposes of a competition assessment in the aviation sector defined by the competition authorities?

The Authority of Consumer Protection and Defence of Competition will take into account two components to determine the relevant market for a specific good or service:

- the product market, namely the competing goods or services in the relevant markets; and
- the geographic market, namely the geographic area of the relevant market.

### Code-sharing and joint ventures

32 | How have the competition authorities regulated code-sharing and air-carrier joint ventures?

Air-carrier joint venture agreements between airlines fall within a general merger control regime. In Panama, there is no mandatory pre-merger control requirement to agree a merger or a joint venture. However, Panama's Antitrust Law provides a voluntary notification process where potential mergers or economic concentrations can be submitted to the Authority of Consumer Protection and Defence of Competition for its approval. If the results of this verification are positive and the transaction is approved, the same will have antitrust immunity, which means that nobody will be able to challenge it in the future.

It is important to note that if such potential transactions include a collaboration agreement between carriers (ie, code-sharing agreement, JBA, interline agreements), prior approval from the AAC must be obtained.

### Assessing competitive effect

33 | What are the main standards for assessing the competitive effect of a transaction?

The main standards for assessing the competitive effect of a transaction are the following:

- the relevant market in the terms provided in the Antitrust Law;
- the identification of the economic agents that supply the market, the analysis of their market power in a relevant market, and the degree of concentration in said market. There are some factors defined in the Antitrust Law that evidence this situation:
  - the participation of an agent in a market, and its ability to fix prices unilaterally or to restrict the output in such market, making it impossible for competitors to countervail that ability;
  - the entry barriers to the relevant market;
  - the presence and market power of the competitors;
  - access to raw materials; and
  - the recent behaviour of the agent;
- whether the concentration will have an 'unreasonable effect' on competition in the market. The Antitrust law provides three presumptions that an economic concentration has an effect contrary to the law:
  - economic concentrations that confer or may confer on the purchaser, the acquirer or the economic agent the power to unilaterally fix prices or to restrict substantially the supply or provision of goods in the relevant market, when there is no possibility that competitors may countervail that power;

- economic concentrations that have or may have as an object the displacement of existing or potential competitors from the relevant market or the prevention of their access to the relevant market; and
- economic concentrations that have as an object or effect the substantial facilitation of the exercise of prohibited monopolistic practices by participants in the act or attempted act.

### Remedies

34 | What types of remedies have been imposed to remedy concerns identified by the competition authorities?

The Antitrust Law provides the corrective measures that the Authority of Consumer Protection and Defence of Competition (ACODECO) may adopt after a merger investigation (either submitted via voluntary pre-merger notification or not) if the operation is determined to be illegal. These corrective measures are:

- impose conditions on the transition for it to comply with the law; and
- order partial or total divestiture of the new entity of what would have been unduly concentrated; the termination of control or the suspension of the acts, as appropriate.

The above corrective measures will be taken without prejudice to the sanctions that ACODECO or the national courts may impose. In such processes, ACODECO has five working days (following the notification of the resolution ordering the suspension) to file a complaint against the economic agent that violated the act or practice. If the claim is not filed within five days, the suspension of the act is automatically relieved. After submitting the complaint, ACODECO must again request that the court suspend the act or prohibited practice. The order of suspension decreed by ACODECO can later be revoked or modified by the civil judge at the request of any affected party.

## FINANCIAL SUPPORT AND STATE AID

### Rules and principles

35 | Are there sector-specific rules regulating direct or indirect financial support to companies by the government or government-controlled agencies or companies (state aid) in the aviation sector? Is state aid regulated generally?

There are no such sector-specific rules in Panama.

36 | What are the main principles of the state aid rules applicable to the aviation sector?

There are none.

### Exemptions

37 | Are there exemptions from the state aid rules or situations in which they do not apply?

Not applicable in Panama.

### Clearance of state aid

38 | Must clearance from the competition authorities be obtained before state aid may be granted? What are the main procedural steps for doing so?

Not applicable in Panama.

### Recovery of unlawful state aid

39 | If no clearance is obtained, what procedures apply to recover unlawfully granted state aid?

Not applicable in Panama.

## CONSUMER PROTECTION

### Passengers

40 | What rules regulate denied boarding, cancellation or (tarmac) delay?

The rules that regulate such situations in Panama are:

- article 213 of Law No. 21 of 29 January 2003;
- the Montreal Convention of 1999 ratified by Panama;
- Law No. 45 of 2007 (Panama's Antitrust Law); and
- Resolution No. 103-JD of 20 July 1999.

### Package holidays

41 | What rules apply to the sale of package holiday products?

There are no specific rules related to the sale of packages or holiday products. In such cases, what applies are the provisions contained in Law No. 45 of 2007 (Panama's Antitrust Law) related to the period of validity of the promotions, the quantity of the products offered and products features (ie, articles 59, 62, 64 of the Antitrust Law).

### Other consumer legislation

42 | Is there any other aviation-specific consumer legislation?

Law No. 6 of 16 June 1987 provides a 25 per cent discount, to Panamanian or foreign residents residing in Panama over the age of 55 for females and 60 per cent for males, on the price of air tickets brought in Panama, from national and foreign air carriers.

Executive Decree No. 88 of 2002 establishes that all aircraft must have the necessary adjustments to allow the entry and exit comfortably and safely of passengers with disabilities. Additionally, aircraft must possess a wheelchair that may circulate between the aisles of the aircraft; and information regarding security must be provided in written form and Braille for people with visual impairments.

## INSURANCE AND SECURITY

### Insurance for operators

43 | What mandatory insurance requirements apply to the operation of aircraft?

Article 196 of Law No. 21 of 29 January 2003 established that all operators of aircraft and airport concessionaires are obliged to get insurance for liability for third parties on the ground, crew members, passengers and, in general, for any person who may suffer harm as a result of their operations.

### Aviation security

44 | What legal requirements are there with regard to aviation security?

Article 5 of Law No. 21 of 29 January 2003 provides that, without prejudice to what the international agreements signed by Panama may establish, the events or acts occurring on board an aircraft registered in Panama or a foreign aircraft within Panamanian territory or onboard an aircraft registered in Panama in territories not subject to the jurisdiction of another state will be subject to Panamanian laws.

Panamanian law will also apply to cases referred to in article 3 of the Tokyo Convention on Offences, and Certain Other Acts Committed on Board Aircraft, signed on 14 September 1963; in article 4 of the Hague Convention for the Repression of the Illicit Seizure of Aircraft of 16 December 1970; in article 5 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971; and in article III of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, set up in Montreal on 23 September 1971, adopted by the Republic of Panama.

Law No. 21 of 29 January 2003 also provides that the Civil Aviation Authority will supervise and coordinate all the airport security, which will be determined following the provisions of the law, Book XXXVI of the Civil Aviation Regulations of Panama, and in particular with Annex 17 of the Chicago Convention.

### Serious crimes

#### 45 | What serious crimes exist with regard to aviation?

Law No. 21 of 29 January 2003 added some articles to the Panama Criminal Code, all related to crimes caused on board an aircraft or within airport facilities. Such serious crimes are, among others, the following:

- the hijacking of an aircraft;
- the commission of acts of violence against a person on board an aircraft in flight;
- the destruction of an aircraft in service or cause damage to an aircraft that may constitute a danger to the safety of the flight;
- the destruction, damage or disturbance of the functioning of the air navigation facilities, inasmuch as such acts represent a danger to the safety of an aircraft in flight;
- the commission of an action of violence against a person at an airport that causes severe injury or death; and
- the destruction or causing of severe damage to the facilities of an airport or to an aircraft that is not in service, or the disruption of airport services, if such acts endanger or may jeopardise airport security.

### UPDATE AND TRENDS

#### Emerging trends

#### 46 | Are there any emerging trends or hot topics in air transport regulation in your jurisdiction?

Tocumen International Airport serves almost 90 direct passenger destinations, making Panama the country with the best air connectivity in the region. However, the country is facing many challenges in air transport, such as the finalising of the Tocumen International Airport's second terminal, the construction of a third runway, the reorganisation and optimisation of the airspace, and even the concession of certain airports within Panama to private companies for their full development.

If our country issues regulations against the factors that have contributed to our success as a competitive aviation hub or, for instance, the bidding processes to build the necessary infrastructure are not transparent, our leading position in the region may be in jeopardy. In sum, the success of commercial aviation in Panama and our development as a hot tourist destination in the region depends on the wise decisions of the government in these matters.



#### Felipe Escalona

felipe.escalona@delcolaw.com

Edificio Midtown, Piso 10  
Calle 74, San Francisco  
Panama City  
Panama  
Tel: +507 200 0335 / +507 640 02070  
www.delcolaw.com

### Coronavirus

#### 47 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

To date, no emergency legislation or relief programmes have been enacted to specifically address the impact of the covid-19 pandemic on the air transport sector in Panama. Many initiatives and support measures have been proposed to the government of Panama by the International Air Transport Association and other tourism local chambers to address this situation. Such measures include, among others, providing flexible loans to tourism companies, financial aids, the non-payment of parking fees for the aircraft that are grounded at local airports owing to the suspension of international flights. However, no official resolution or law decree has been enacted to date in that sense.

Despite the above, a measure that has helped many of the companies established at local airports is the decision adopted by Aeropuerto Internacional de Tocumen, SA – the state-owned company that manages all the major airports in the country – to suspend the payment of the monthly rent stated in their concessionary agreements for such companies. This measure will be maintained for the benefit of the companies that could not operate until the removal of the suspension of international flights.

Air transport is one of the most affected sectors by the covid-19 crisis. Our recommendation to our clients is to keep their expenses under tight control, and if they need to, apply to any benefit that the government may provide in the future for aviation or tourism-related companies.