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IFALPA says Judge Mendes' decision to indict Lepore, Paladino and the air traffic controllers is fundamentally flawed and 'a crime' against air safety.

Chertsey 4 June: The International Federation of Air Line Pilots' Associations (IFALPA) is astounded by the decision of Judge Murilo Mendes of the Brazilian Federal Court in Sinop, to indict Joseph Lepore and Jan Paladino, the pilots of the Embraer Legacy that collided with a Gol Airlines 737-800 in September of 2006 under section 261 of the Brazilian Penal Code "for placing a vessel or aircraft in jeopardy".

The decision to proceed with the indictment flies in the face of international best practice as the charges against the two pilots and four Air Traffic Controllers also indicted are solely based on an incomplete and non-technical investigation by the Policia Federal.

Furthermore, IFALPA strongly insists that the principles of just culture as laid down in Attachment E of ICAO Annex 13, hold that there should be no criminal liability without intent to do harm. Brazilian law must respect this fundamental principle in all cases. Since there has not been any factual support advanced for a finding that there was any intent by the Legacy crew to place their aircraft in danger, there should be no basis for prosecution under Brazilian law and therefore, Judge Mendes' ruling is flawed and counter productive to the improvement of air safety.

Allowing a police investigation to pre-empt the findings of the independent technically competent investigation will not help to establish the sequence of events that led to the tragic mid air collision and as a result, an opportunity to improve the safety of the air transport system will be lost.

Once again IFALPA calls on the Brazilian Ministry of Justice to take the opportunity to comply with the guidance of ICAO Annex 13 concerning post accident prosecution and to correct this unwarranted and premature action by overturning the indictments until the findings of the technical investigation are reported by Cenipa (Centre for the Investigation and Prevention of Aeronautic Accidents)".

Notes to Editors

The International Federation of Air Line Pilots' Associations represents in excess of 100,000 pilots in more than 95 countries world-wide. The mission of IFALPA is to be the global voice of airline pilots, promoting the highest level of aviation safety and security world-wide and providing services, support and representation to all of its Member Associations. See the Federation website www.ifalpa.org

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