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CRIMINAL LIABILITY FOR AIRCRAFT OFFENSES

Ukrainian legislation attributes aircraft to the sources of high risk. Even in the times of Soviet legal literature, was expressed one opinion that the danger of operating an aircraft, compared to the use of other models of transport, is not only increased but also high. It arises because; being in the air, an airplane (unlike a car, electric locomotive and other similar vehicles) cannot be stopped at all. Stopping the engine sharply reduces the speed, and with it immediately reduces the lifting force that holds the ship in the air. And as soon as this force is exhausted, the aircraft is transformed into a physical body with a large reserve of potential energy that throws the ship with great force to the ground [1, p. 180].

Accordingly, not only persons directly engaged in the activity related to the use, operation of air vehicles (aviation personnel), but also persons using such transport (passengers), as well as other third parties, are subject to this danger.

When qualifying the crimes of the aviation group by *generic object* of attack, it should be remembered that section XI of the Special Part of the Criminal Code combines attacks on such relations, which are intended to ensure the safety of traffic and operation of different modes of transport. An *additional direct object* of these crimes may be the life and health of the person, his property.

The qualification of offenses against traffic safety and the operation of transport is influenced by their *subject* (eg. aircraft, transport communications, airports, airfields, communications, signaling, automation to ensure the safety of aircraft traffic).

Qualifying the analyzed crimes by the *subject*, we must be based on the requirements of Art. 22 of the Criminal Code of Ukraine. Such subjects may be natural convicts who are 14 years old or 16 years old. Some crimes may be only committed by *special entities*, such as: a member of the air transport crew, an air traffic controller (traffic service manager), a ship captain; the person responsible for the technical condition or operation of the aircraft [2, p. 120-125].

When qualifying on the *subjective side*, it should be remembered that it is characterized by a reckless form of guilt (criminal

overconfidence or criminal negligence) on the *consequences*. The *act* or *omission* itself may be done either *carelessly* or *intentionally*.

Infringements must be committed on one of the types of air transport. Air transport includes aircraft – apparatus maintained in the atmosphere as a result of its interaction with air other than interaction with air reflected from the earth's surface [3, p. 8]. These devices include: planes, helicopters, gliders and more. According to the paragraph 2.1.5. Decree of the Ministry of Transport of Ukraine "On Approval of the Rules for Issuance of Certificates to Aviation Personnel in Ukraine" [4].

The main types of criminal offenses and crimes on aircraft include: Violation of traffic safety rules or operating air traffic, Professional activity of a crew member or air traffic control by an air traffic controller (traffic controller) under the influence of alcohol or intoxicated by psychotropic substances, Theft or seizure of an aircraft, Breach of flight rules, etc.

According to the "Convention on Crimes and Certain Other Actions Taken aboard an Aircraft", crimes committed on an aircraft belonging to a State Party to the Convention other than a vessel used in military, customs and police service for the purpose of extradition shall be considered as extradition those committed on the territory of the State of registration of the aircraft [5, p. 2].

That is, in certain cases the criminal jurisdiction of Ukraine extends to crimes committed aboard non-military air objects registered in Ukraine that are flying over the territory of other countries.

The exceptions to this rule under the Convention are cases where the offense:

a) has consequences in the territory of another State; b) committed by a national of that State by a person resident on the territory of that State; c) directed against the security of that State; d) is in breach of the rules of flight aircraft in force in that State; e) the exercise of jurisdiction is necessary to secure the obligation of this State in accordance with a multilateral international agreement [5, p. 3].

Therefore, in the context of today, the intensification of the use of airspace increases the risk associated with its use. Soviet and modern Ukrainian legal science responded to these changes in a timely manner, and as a consequence we can see: the accession of the USSR to the "Convention on Offenses and Some Other Actions Taken aboard an Aircraft" in 1987 (September 14, 1963), amending the Criminal Code of Ukraine, and later creation and introduction in 2011 the Air Code of Ukraine. All this testifies to the significant role and close link between criminal law and international aviation law for the legal protection of the

rights and freedoms of people and citizens, as well as passengers and crew members of civil aviation at the same time.

Literature

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