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### **Act of illegal intervention in the civil aviation activities: problem of definition**

*The author analyzes the international legal aspects of the definition "act of illegal intervention in the civil aviation activities" and types of illegal activities that are covered by this concept. The author proposes a definition of this phenomenon.*

The problem of countering air terrorism remains relevant at the global level. In this regard, the theoretical and scientific basis for such activities needs to be developed, in particular in terms of defining the concept of "acts of illegal intervention in the civil aviation activities". At the level of international law, the actions covered by this term are considered an international crime or offense.

The first definition of this term was made in 2006, with the adoption of Annex 17 to the 1944 Chicago Convention for the Regulation of International Civil Aviation, which defines unlawful acts as "acts or attempts to commit acts that endanger the safety of civil aviation and air transport". An open-ended list of such acts includes: unlawful seizure of an aircraft; destruction of an aircraft; destruction of an aircraft in operation; taking hostages on board an aircraft, etc.

There are a significant number of conventions that expand the concept of "act of unlawful interference". Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) [1]. The Montreal Convention of 1971 already uses the term "unlawful act against the safety of civil aviation", which includes a number of formulations related mainly to sabotage acts that threaten the technical reliability of aircraft and aviation equipment both on board and at the airport.

The definition of an act of unlawful interference committed on board an aircraft was provided by Article 11 of the Tokyo Convention of 1963 (Ukraine acceded to the Convention on 21.12.1987): "When a person, on board an aircraft unlawfully, by force or threat of force, commits an act of interference, seizure or otherwise unlawfully exercises control over an aircraft in flight, or when it is planned to commit such an act" [2].

The Hague Convention of 1970 was concluded to prevent acts of unlawful seizure of aircraft and to take appropriate measures to punish offenders. The Convention considers a person on board an aircraft during its flight to have committed an offense if he or she has seized an aircraft by force, threat or intimidation, or has exercised control over such an aircraft, or has attempted to do so, or has been an accomplice to the person who has committed it (Article 1). States parties to the H.C. 1970 undertake to impose severe penalties on the perpetrators of such crimes.

The Convention provides for rules under which States Parties may establish their jurisdiction over such an offense and any other acts of violence against passengers or crew committed by the alleged offender. The procedural measures that states may take (detention, preliminary investigation of the facts, ensuring contact of the detained person with a representative of the state of his nationality, notification of

the state of registration and other states of the fact and reasons for the detention, etc.) are largely similar to the relevant provisions of the 1963 Tokyo Convention.

Article 7 of the Convention is of great importance, which provides that a State Party to the Convention, in whose territory the alleged offender was found, if it does not extradite the offender to another State, is obliged, without any exception and regardless of the territory in which the offense was committed, to submit the case to its competent authorities for prosecution. These authorities decide on the case in accordance with the law of their state. The Convention establishes the inevitability of extradition or punishment when each of the acts referred to in Article 1 is committed or is about to be committed, and States shall take all appropriate measures to restore or maintain the control of the lawful pilot over the aircraft. The passengers and crew shall be assisted in continuing their journey to their destination as soon as possible, and the aircraft and cargo shall be returned to their rightful owners.

This convention applies only if the place of take-off or actual landing of the aircraft is outside the state of its registration (otherwise, national legislation applies).

The qualification of the act of "unlawful seizure" as a crime, in accordance with the provisions of the Convention, is limited to the period of the aircraft's stay in flight (i.e. from the moment all external doors of the aircraft are closed after loading until each of such doors is opened for unloading). In the case of a forced landing, it is considered that the landing takes place until the competent authorities assume responsibility for the aircraft and for the persons and property on board.

Summarizing the norms of the above conventions, scholars have proposed the following system of international legal concepts related to acts of unlawful interference

- piracy, including in the field of civil aviation (Geneva Convention of 1958);
- unlawful seizure of an aircraft (Hague Convention of 1970);
- an act against civil aviation security - sabotage on an aircraft or at an airport [2, p. 109-111].

That is, the Tokyo, Hague and Montreal Conventions laid the foundations for international cooperation between states in combating acts of unlawful interference with civil aviation and civil aviation security. These conventions oblige states to adopt appropriate domestic legislation to classify acts of unlawful interference as threatening civil aviation safety and a crime to be investigated, and in case of their commission - to bear responsibility in accordance with the degree of danger, and in case of refusal by the state - the obligation to extradite the perpetrators of these crimes to other interested states [4, p. 74-75].

The current Air Code of Ukraine no longer contains a definition of acts of illegal intervention in the civil aviation activities, which was in Part 2 of Article 72 of the Air Code of 1993. Thus, in international law, the general concept of "acts of illegal intervention in the civil aviation activities" is understood as intentional unlawful acts committed mainly by individuals. Almost all relevant international conventions require states parties to incorporate acts of unlawful interference with civil aviation into national legislation as crimes, as they pose a potentially high public danger.

In addition, the concept of an act of illegal intervention in the civil aviation activities in international law should be fully consistent with the same concept in national law.

We propose to define acts of illegal intervention in the civil aviation activities as: intentional socially dangerous actions, unlawful actions against the safety of civil aviation and aviation facilities that have created a real threat or resulted in moderate bodily injury and/or significant property damage.

We believe it is necessary to continue implementing the rules of international law and to enshrine the relevant definition at the legislative level.

### **References**

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