

LEGAL PROBLEMS AND PERSPECTIVES OF MODERN INTERNATIONAL CIVIL AVIATION AGAINST THE BACKGROUND OF COVID-19 PANDEMIC

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Abstract

The main purpose of the study is to make factual and legal analysis of the situation in modern international civil aviation against the background of the Covid 19 pandemic in the world. In particular, a significant part of the work deals with the legal assessment of the pandemic in Georgia and international civil aviation and shows the main differences that are related to some aspects of European law on the one hand, and the international legal framework on the other hand. The article focuses on a detailed analysis of why there are no specific legal regulations related to Covid 19 in the field of air transport till now, as well as on the ungrounded lack of the regulations in terms of international legal and economic-political vacuum. The concluding part of the paper discusses what the modern international community should do in the future to address the various principles of international law in terms of legal regulation of this problem.

Keywords: International Civil Aviation, Pandemic, Covid 19, ICAO, IATA, International Legal Regulations, Airlines, Airports.

The Coronavirus pandemic has triggered a crisis like no other in history – it will change international civil aviation forever

1. Introduction

There was a period in the history of international air law when a state was obsessed with creating its own national flight system. It soon became apparent that the variety of such rules was such that it was practically impossible to fly for international air transport under these rules. That is why the agenda saw necessity of creation uniform flight rules, only through collective efforts within the framework of an international organization. Such a task was set for the International Civil Aviation Organization (hereinafter the ICAO) by the 1944 Chicago Convention¹. Its adoption is associated with the desire to meet the needs of the world community, the organization of regular movement of people and cargo flows in the airspace, and the creation of an authoritative and influential organization for this purpose, called the **International Civil Aviation Organization (ICAO)**².

The Aviation Authority of Georgia intends to harmonize the rules, procedures, regulatory norms of international air services, taking into account their national interests.

Georgia uses the potential and capabilities of the ICAO for the development of national civil aviation, the formation of national aviation communications infrastructure, and the provision of qualified air personnel.

International aviation law predominantly regulates the activities of civil aviation. These activities include

¹ See Chicago Convention on International Civil Aviation, <<https://matsne.gov.ge/ka/document/view/37096?publication=0>>

² See the official website of the organization <icao.org>

international flights, international transportation of passengers and cargo from one country to another. Regular or irregular international civil aviation flights are operated for one purpose – to transport passengers and cargo on defined international air routes. The role of civil aviation in the development of the world economy is especially great. The world transport system is unimaginable without aviation. Even any temporary cessation of it is practically equivalent to a natural disaster that paralyzes the country's economy and livelihood. Civil aviation acts as international air transport. As a result of these activities, specific interstate aviation relations emerge between states due to the organization of regular and irregular international flights over their territory. Such flights are regulated by special air navigation rules, which create an international flight regime. Its main task is to ensure the safety of regular and irregular flights in order to protect human life and health.

2. Civil Aviation and Analysis of the Current Situation of the Pandemic

From March 2020, international flights were canceled and restrictions were imposed by states to stop the spread of Covid 19 around the world, which almost completely stopped international air traffic. The global pandemic had an instant and significant impact on the world economy. A diverse cost-cutting strategy has impacted the international civil aviation sector, which includes numerous entities, employment, and the creation of decent and authoritative industry infrastructure. ICAO, the International Health Organization, and the International Labor Organization have gained considerable experience in previous crisis situations, which, to some extent, helps the industry to overcome the problems caused by these fluctuations¹.

According to various forecasts of international aviation organizations², the international air traffic of 2019 can be fully restored in 2024, according to various specialists in the field of aviation, it may be the beginning or end of the year, but not earlier than the date named³. However, if sooner or later the number of passengers carried equals the number of passengers transported in 2019, then the growth rate of the global aviation industry can no longer be compared to the data before the pandemic, – says **Michal Nowak**, Marketing Director of the **Embraer**⁴.

“The last 10 or 20 years have been an economic supercycle that will never happen again; it is: structural changes in passenger behavior, environmental issues, the green economy. We believe we can never go back to the A380, such a market and such a scenario,” Nowak added⁵.

Even higher ticket prices, fewer air routes, pre-flight check-ups and even fewer free meals. The coronavirus pandemic has created a new era in air traffic. Empty airports are proof that the Coronavirus pandemic has affected practically every part of the aviation industry. States must be prepared for the intermittent and protracted recovery of the sector.

In just a few weeks, the coronavirus seemed to halt decades of civil aviation development, air achievements, which was one of the largest cultural and economic events in the world since World War II. And now everything is suspended. According to analytics companies, airlines around the world have reduced their aircraft capacity by more than 70 percent since January.

Airlines are also concerned about the fact that people probably will not want to be in locked spaces, even

¹ See <<https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS-755910/lang--en/index.htm>>

² See official website of the International Air Transport Association (IATA). <<https://www.iata.org/en/programs/cargo/>>

³ See details <<https://www.aex.ru/exp/>>

⁴ See <<https://novostivl.ru/post/85987/>>

⁵ See *ibidem*

when the virus is already under control. According to a study¹ by the International Air Transport Association (hereinafter IATA), more than 40 percent of potential passengers think about waiting another six months after the restrictions are lifted and the borders open. Therefore, some airlines plan to leave empty seats, at least at the beginning of a traffic refresh, to give users more free personal space.

During the international flight, the conditions will be clearly defined – the necessity of aviation restrictions, the distance between them, as well as the conditions of passenger registration – distance. During the flight there will be many tasks in terms of disinfection work, the aircraft will be ready and equipped for the appropriate situation, and this is related to the additional financial security.

According to experts, the inspection process in the airport hall will take much longer. In addition to routine checkups, medical examinations will also be performed. However, short-haul flights require at least 70 percent employment to make the flight profitable. With a 33 percent reduction in aircraft throughput, airlines will lower this level of resilience².

At pre-priced values, airlines are flying at a loss when full-service carriers may rely – mainly at long-distance – on the premium long distance subscribers. According to the head of the IATA, everyone will have to revise the pricing strategy³. For their part, some Georgian airlines introduced some equipment on board the aircraft in 2020 – goggles, masks, gloves or protective suits. The European Commission is preparing a draft of rules according to which airlines must change flight conditions as soon as the coronavirus restrictions are lifted. Similar measures, which may include the mandatory wearing of appropriate shields or maintaining a certain distance between passengers, will be taken by all carriers.

However, some airlines, which are expecting an even more significant drop in sales, are criticizing the planned measures precisely because many seats will be left empty. Business and passenger travel have also been reduced due to reduced airline activity. Charter passenger and freight shipments remain more or less stable. However, this is a small percentage of the total market share.

3. Impact of coronavirus on civil aviation – air ticket prices will increase. Due to social division rules, tickets for traditional, as well as low-cost airlines are likely to become more expensive. Airlines have lost \$314 billion in ticket sales this year, and half of them have gone bankrupt altogether. Nearly two-thirds of the world's air fleet – more than 17,000 aircrafts – have been created in recent weeks. At the same time, more than 25 million jobs in the aviation sector are already under threat.

What fate awaits civil aviation? What will it be like in the future?

It seems that a return to normal aviation reality, to which passengers were normally accustomed, will be impossible for a long time. Boarding a plane is already subject to a special health check. Also, passengers may undergo thermoscreening or have to submit health certificates.

This process can significantly hinder work. In addition, 95 percent of aircraft are on land today, with the pandemic-induced drop in revenue of 99 percent in the current crisis.

The resumption of international air transport will depend on the further development of the Covid-19 pandemic, national legislation and, in particular, the readiness of passengers to fly under the prescribed conditions in order to cross the border without any problems.

¹ See the official website of the International Air Transport Association (IATA) <<https://www.iata.org/en/programs/cargo/>>

² See details: <<https://novostivl.ru/post/85987/>>

³ See <<https://www.iata.org/en/publications/>>

In the last period, airlines around the world have been applying to their own governments for financial support. Thanks to government funding, airlines and large-budget airlines are likely to survive. At the same time, investment by governments means that airlines are at least partially owned by the state or they owed to the state. For this reason, they are likely to be forced to reduce the number of flights or even increase ticket prices. An increase in this, could mean a rapid increase in the popularity of rail freight.

3. Conclusion

It is still almost impossible to predict what fate awaits civil aviation after the coronavirus. But there is no doubt that lifting the travel ban will increase the number of customers who want to visit their families, friends or go on vacations. In addition, there are many, who would like to use their voucher for an already purchased flight that has been canceled or postponed due to safety measures. At the same time, during the crisis, certain issues of Georgia's aviation activities appeared with special urgency. The EU consists of 27 countries and they all operate in accordance with general aviation legislation. Civil aviation is one of the common segments in which the EU is subject to a single legal regulation, while health is considered a national treasure and, therefore, the rules developed at the national level apply. These are the national rules of individual states and sometimes they are very different from each other. This issue is receiving a lot of attention in Europe, but a number of countries are trying to continue moving in their own way, so there is a need to create an international legal norm. To date, there is still no common European health care regulatory lever that gives us general rules and norms, nor an international legal norm; all operate in accordance with their own national rules.

Because each European country adheres to health standards, we, as a separate representative of the aviation world – together with the general aviation authorities and commercial aviation, face difficulties in developing and implementing some common approaches in this area.

The situation is chaotic: what, when and who will renew? One country or the whole region? Or maybe one city? Take, for example, the quarantine duration for Covid 19: Somewhere in some countries it is ten days, in others it is fourteen. There were „blacklists“ of the countries from which mandatory quarantine was required upon entry, and sometimes „bilateral“, necessary for each party, or „green“ countries and their different regulations.

The situation could be positively affected by the widespread introduction of express tests at airports – for example, they are already being done at **Heathrow Airport (London)**¹. In this case, people who decide to travel by air should not waste time looking for places where they can be tested for Covid 19 and get the relevant document proving that the person is not a carrier of the virus.

From December 15 this year, those who have arrived in England and had taken the Covid-19 test, five days after arrival will be able to avoid the mandatory two-week quarantine – **Grant Shapps**, the UK Minister for Transport declared. For private firms, the test will cost GBP 65-120 (\$ 86-160). According to the Minister, this testing will help increase international travel and, at the same time, ensure the safety of the population. Representatives of the tourism industry welcomed the government's decision, but noted that it was a slightly belated step. Currently, passengers from countries which England does not have a transport corridor with, must stay in self-isolation for 14 days. From December 15, it will be possible to halve the period of self-isolation, after the coronavirus test will be performed five days after the end of the trip. Typi-

¹ See details: <<https://www.heathrow.com/>>

cally, the test result becomes known in 24-48 hours¹. For its part, our state is trying to popularize common European ideas. We can try to work out something unilaterally. At the same time, it is still unclear how the situation will develop in Georgia in the direction of drafting these legal regulations. It is clear today that individual countries have different perceptions of the level of threat and how to proceed in the current circumstances. It is very difficult to discuss this topic. In terms of civil aviation, one common standard is necessary and it is not important what color paper the regulations will be printed on – even if it is purple. The key takeaway is that it is the same for everyone and widely distributed. So that other countries, including neighboring states, the European Union, the US, Asia, would also be involved in the work.

The idea of e-passports is excellent, for which it is necessary to develop / adopt legal norms within ICAO. Here, again and again, the particular decision of the Europeans will be important for us, unity in the European space is important. As in other cases, international civil aviation needs a common standard – an international legal norm, which will act in such a way that we do not consider separately what documents are required when flying from one particular country to another, for example, from Georgia to Italy. Close state coordination with ICAO, cooperation of Georgian Airlines with the IATA and other regional international aviation organizations is essential.

¹ See <<https://www.bbc.com/news/world-europe-54999446>>