

Doc 8920

CONVENTION

for the Suppression of Unlawful Seizure of Aircraft

Signed at The Hague on 16 December 1970

CONVENTION

pour la répression de la capture illicite d'aéronefs

Signée à La Haye le 16 décembre 1970

К О Н В Е Н Ц И Я

О БОРЬБЕ С НЕЗАКОННЫМ ЗАХВАТОМ ВОЗДУШНЫХ СУДОВ

Подписана в Гааге 16 декабря 1970 года

CONVENIO

para la represión del apoderamiento ilícito de aeronaves

Firmado en La Haya el 16 de diciembre de 1970



1970

INTERNATIONAL CIVIL AVIATION ORGANIZATION
ORGANISATION DE L'AVIATION CIVILE INTERNATIONALE
МЕЖДУНАРОДНАЯ ОРГАНИЗАЦИЯ ГРАЖДАНСКОЙ АВИАЦИИ
ORGANIZACION DE AVIACION CIVIL INTERNACIONAL

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CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT

PREAMBLE

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

Article 1

Any person who on board an aircraft in flight:

(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or

(b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").

Article 2

Each Contracting State undertakes to make the offence punishable by severe penalties.

Article 3

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed

to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

Article 4

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence, in the following cases:

(a) when the offence is committed on board an aircraft registered in that State;

(b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

(c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 5

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall

immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

Article 8

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to

establish their jurisdiction in accordance with Article 4, paragraph 1.

Article 9

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

Article 10

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

Article 11

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

Article 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them,

be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

Article 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by States participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (hereinafter referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depos-

tary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

Article 14

1. Any Contracting State may denounce

this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments, have signed this Convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

CONVENTION POUR LA REPRESSON DE LA CAPTURE ILLICITE D'AERONEFS

PREAMBULE

LES ETATS PARTIES A LA PRESENTE CONVENTION,

CONSIDERANT que les actes illicites de capture ou d'exercice du contrôle d'aéronefs en vol compromettent la sécurité des personnes et des biens, gênent sérieusement l'exploitation des services aériens et minent la confiance des peuples du monde dans la sécurité de l'aviation civile,

CONSIDERANT que de tels actes les préoccupent gravement,

CONSIDERANT que, dans le but de prévenir ces actes, il est urgent de prévoir des mesures appropriées en vue de la punition de leurs auteurs,

SONT CONVENUS DES DISPOSITIONS SUIVANTES:

Article 1er

Commets une infraction pénale (ci-après dénommée «l'infraction») toute personne qui, à bord d'un aéronef en vol,

a) illicitement et par violence ou menace de violence s'empare de cet aéronef ou en exerce le contrôle ou tente de commettre l'un de ces actes, ou

b) est le complice d'une personne qui commet ou tente de commettre l'un de ces actes.

Article 2

Tout Etat contractant s'engage à réprimer l'infraction de peines sévères.

Article 3

1. Aux fins de la présente convention, un aéronef est considéré comme en vol depuis le moment où, l'embarquement étant terminé, toutes ses portes extérieures ont été fermées jusqu'au moment où l'une de ces portes est ouverte en vue du débarquement. En cas d'atterrissage forcé, le vol est

censé se poursuivre jusqu'à ce que l'autorité compétente prenne en charge l'aéronef ainsi que les personnes et biens à bord.

2. La présente convention ne s'applique pas aux aéronefs utilisés à des fins militaires, de douane ou de police.

3. La présente convention ne s'applique que si le lieu de décollage ou le lieu d'atterrissage effectif de l'aéronef à bord duquel l'infraction est commise est situé hors du territoire de l'Etat d'immatriculation de cet aéronef, qu'il s'agisse d'un aéronef en vol international ou d'un aéronef en vol intérieur.

4. Dans les cas prévus à l'article 5, la présente convention ne s'applique pas si le lieu de décollage et le lieu d'atterrissage effectif de l'aéronef à bord duquel l'infraction est commise sont situés sur le territoire d'un seul des Etats mentionnés audit article.

5. Nonobstant les dispositions des paragraphes 3 et 4 du présent article, les articles 6, 7, 8 et 10 sont applicables, quel que soit le lieu de décollage ou le lieu d'atterrissage effectif de l'aéronef, si l'auteur ou l'auteur présumé de l'infraction est découvert sur le territoire d'un Etat autre que l'Etat d'immatriculation dudit aéronef.

Article 4

1. Tout Etat contractant prend les mesures nécessaires pour établir sa compétence aux fins de connaître de l'infraction, ainsi que de tout autre acte de violence dirigé contre les passagers ou l'équipage et commis par l'auteur présumé de l'infraction en relation directe avec celle-ci, dans les cas suivants:

a) si elle est commise à bord d'un aéronef immatriculé dans cet Etat;

b) si l'aéronef à bord duquel l'infraction est commise atterrit sur son territoire avec l'auteur présumé de l'infraction se trouvant encore à bord;

c) si l'infraction est commise à bord d'un aéronef donné en location sans équipage à une personne qui a le siège

principal de son exploitation ou, à défaut, sa résidence permanente dans ledit Etat.

2. Tout Etat contractant prend également les mesures nécessaires pour établir sa compétence aux fins de connaître de l'infraction dans le cas où l'auteur présumé de celle-ci se trouve sur son territoire et où ledit Etat ne l'extrade pas conformément à l'article 8 vers l'un des Etats visés au paragraphe 1er du présent article.

3. La présente convention n'écarter aucune compétence pénale exercée conformément aux lois nationales.

Article 5

Les Etats contractants qui constituent pour le transport aérien des organisations d'exploitation en commun ou des organismes internationaux d'exploitation et qui exploitent des aéronefs faisant l'objet d'une immatriculation commune ou internationale désignent, pour chaque aéronef, suivant les modalités appropriées, l'Etat qui exerce la compétence et aura les attributions de l'Etat d'immatriculation aux fins de la présente convention. Ils aviseront de cette désignation l'Organisation de l'Aviation civile internationale, qui en informera tous les Etats Parties à la présente convention.

Article 6

1. S'il estime que les circonstances le justifient, tout Etat contractant sur le territoire duquel se trouve l'auteur ou l'auteur présumé de l'infraction assure la détention de cette personne ou prend toutes autres mesures nécessaires pour assurer sa présence. Cette détention et ces mesures doivent être conformes à la législation dudit Etat; elles ne peuvent être maintenues que pendant le délai nécessaire à l'engagement de poursuites pénales ou d'une procédure d'extradition.

2. Ledit Etat procède immédiatement à une enquête préliminaire en vue d'établir les faits.