
CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION (MONTREAL CONVENTION)

Note: As of September 2004, this file will no longer be updated.

Opened for Signature: 23 September 1971.

Entered into Force: 26 January 1973.

Duration: The convention does not set any limits on its duration.

Number of Signatories: 60.

Number of Parties: 182.

Depository: International Civil Aviation Organization (ICAO).

Background: At its 18th session, held in Vienna in 1971 from 15 June-8 July, the ICAO Assembly adopted a resolution concerning additional technical measures to be taken for the protection of the security of international civil air transport. In addition, the assembly requested that the ICAO Council and the secretary general of the ICAO ensure that the subject of air transport security be given adequate attention and that suitable items addressing questions of security be included on the agenda of the appropriate meetings of the organization. Due to the ICAO's increasing concerns with meeting the growing threat of violence against international civil aviation, stemming in large part from the 1968 hijacking of an El Al flight, the 1969 hijacking of TWA flight 840, and five airliners hijacked in unison by five separate groups in 1970, it convened a diplomatic conference on air law from 8-23 September in Montreal, Canada. The conference adopted the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Also in 1971, the ICAO published a security manual designed to assist states in taking measures to prevent acts of unlawful interference with civil aviation, or to minimize their effects.

In December 1972, the Sixth Committee approved a Draft Convention for the Prevention and Punishment of International Terrorism, which established the Ad Hoc Committee on International Terrorism to consider the observations of states and submit a report to the UN General Assembly (UNGA) in 1973.

In 1981, the ICAO Council adopted Amendment 4 to Annex 17 of the Chicago Convention to introduce the concept of lease, charter, and interchange of aircraft

in international operations, and it added a provision on the transportation of persons in custody.

Obligations: This convention defines the following as offenses: unlawfully and intentionally performing an act of violence against a person on board a civilian aircraft in flight if it is likely to endanger the safety of that aircraft; destroying an aircraft in service or causing damage to an aircraft that renders it incapable of flight or is likely to endanger its safety in flight; placing or causing to be placed devices or substances likely to destroy the aircraft, render it incapable of flight, or endanger its safety in flight; destroying or damaging air navigation facilities (only if these facilities are used in international air navigation) or interfering with their operation; and communicating false information that would endanger the safety of an aircraft in flight. In addition, it is also an offense to attempt to commit or to be an accomplice of a person who commits or attempts to commit these offenses.

The convention applies, whether the aircraft is engaged in an international or domestic flight, only if: the point of take-off or landing, actual or intended, is outside the territory of the state where the aircraft is registered; or if the offense is committed outside of the state of registration.

States Parties may establish jurisdiction in cases when the offense takes place in the territory of that state; the state is the state of registration of the aircraft; the aircraft lands in the state's territory with the alleged offender still on board; or when the offense is committed against or on board an aircraft leased without crew to a lessee whose primary place of business or permanent residence is in that state. Criminal jurisdiction exercised in accordance with national law is not excluded by this convention.

Compliance and Enforcement: The convention requires states to make the offenses punishable by severe penalties, and it lays out guidelines for custody of suspects. States Parties are required to either extradite the offender or submit the case for prosecution. States Parties are also required to assist each other in connection with criminal proceedings brought under the convention.

Reservations and Withdrawal: Under Article 14, paragraph 1, disputes between two or more states concerning the interpretation or application of the convention will be submitted to arbitration at the request of one of the states if the matter cannot be settled through negotiation. However, a state may make a reservation that it does not consider itself bound by this paragraph at the time of signing, ratification, or accession. In such a case, other States Parties shall not be bound to this paragraph with respect to any State Party who has made such a declaration.

Several States Parties, including Afghanistan, Bahrain, Belarus, Brazil, China, Egypt, Ethiopia, France, Guatemala, Indonesia, Malawi, Mongolia, Oman, Papua New Guinea, Peru, Poland, Qatar, Romania, Russia, Saudi Arabia, South Africa, Syria, Tunisia, and Ukraine, made reservations with respect to Article 14 paragraph 1. In addition, Venezuela made reservations regarding Articles 4, 7, and 8 saying that it would consider clearly political motives and the circumstances under which offenses are committed, in refusing to extradite or prosecute an offender, unless financial extortion or injury to a person on board has occurred. Its reservation is based on the desire to protect its sovereignty in upholding the principle of asylum present in its constitution. Italy, the United States and the United Kingdom have objected to Venezuela's reservation.

Developments:

2004: During the 35th session of the ICAO Assembly, held from 28 September to 8 October, several resolutions were [adopted](#) that relate to the safety of civil aviation:

A35-7, "Unified strategy to resolve safety-related deficiencies," urges states to share and use critical safety information through regional and sub-regional cooperation.

A35-9, "Consolidated statement of continuing ICAO policies related to the safeguarding of international civil aviation against acts of unlawful interference," urges states who have not done so to accede to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

A35-11, "Threat to civil aviation posed by man-portable air defense systems (MANPADS)," calls upon states to cooperate at the international, regional, and sub-regional levels with a view to enhancing and coordinating international efforts aimed at implementing countermeasures carefully chosen with regard to their effectiveness and cost, and to combating the threat posed by MANPADS.

2001-2002: Following the 11 September 2001 terrorist attacks on the United States, the ICAO called on its Member States to take various steps to strengthen the convention: first, agree to cooperate fully in the investigation, apprehension, and prosecution of all those responsible for these acts of unprecedented savagery; second, meet at a high level to reach agreement among states on how best to prevent and eradicate acts of terrorism against civil aviation; and third, develop a detailed action plan to address the new forms of threat to civil aviation.

On 20 February, 2002, Member States of the ICAO endorsed a global strategy for strengthening aviation security worldwide at the two-day, high-level, Ministerial Conference held at ICAO Headquarters in Montreal. A central element of the strategy is an ICAO "Aviation Security Plan of Action," which included regular, mandatory, systematic, and harmonized audits to enable evaluation of aviation security in place in all 187 Member States of ICAO. Among other elements, the Plan of Action included identification, analysis, and development of an effective global response to new and emerging threats.

1992: The Libyan case: Libya called for the implementation of Article 14 of the Montreal Convention in regard to charges by France, the United Kingdom, and the United States that nationals and possibly officials of Libya were involved in the 21 December 1988 bombing of Pan Am flight 103 over Lockerbie, Scotland and the 19 September 1989 crash of UTA flight 772 over Niger. Libya requested that the International Court of Justice (ICJ) declare that Libya had complied fully with all of its obligations under the Montreal Convention. Libya claimed that this convention is the only appropriate one in force between the parties. Furthermore, in observing the convention, Libya believed it was required to establish its own jurisdiction over alleged offenders present in its territory and submit the case to its authorities for prosecution, as there was no extradition treaty between it and the other parties. Libya claimed that the United States and United Kingdom were in breach of this convention by rejecting Libyan efforts to resolve the matter within the framework of international law and by placing pressure on it to surrender the two Libyan nationals for trial.

At the request of the Security Council, the UN Secretary-General endeavored to persuade the Libyan government to comply with resolutions for the purpose of establishing responsibility for the two terrorist acts involving aircraft. The Secretary-General dispatched six UN missions to Libya during this year; however, compliance with the resolutions was not achieved. In 1995, the United Kingdom and the United States filed

preliminary objections to the jurisdiction of the ICJ to entertain the applications of Libya. In 1997, the ICJ heard arguments from the United Kingdom and United States on jurisdiction.

The two Lockerbie suspects went on trial in May 2000 under Scottish law in the Netherlands. One was convicted of murder in January 2001 and sentenced to life imprisonment. The other was acquitted for lack of evidence and freed.

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