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**Chicago Convention and safety in aviation**

**Chicago Convention and its primary articles reflecting the settlement of safety issue in aviation were considered.**

Increase in the role of civil aviation in international air-passenger and -freight operations, raise of international airline traffic concentration and rapid development of aviation equipment require particular attention to the issues of international legal enforcement of international aviation safety.

The regulatory embodiment of the notion “safety” was given in the Chicago Convention on International Civil Aviation signed in 1944.

The Convention on International Civil Aviation, also known as the Chicago Convention, was signed at Chicago on 7 December 1944 and superseding the Convention relating to the Regulation of Aerial Navigation (or Paris Convention) signed at Paris on 13 October 1919 and the Pan American Convention on Commercial Aviation (or Havana Convention), signed at Havana on 20 February 1928. It contained the basic principles and arrangements in order that international civil aviation be developed in a safe and orderly manner, and that international air transport services be established on the basis of equality of opportunity and operated soundly and economically. The Chicago Convention also established the International Civil Aviation Organization (ICAO) [1], a specialized agency of the [United N](https://en.wikipedia.org/wiki/UN)ations charged with coordinating and regulating international air travel.

The document (Chicago Convention) was signed in [Chicago](https://en.wikipedia.org/wiki/Chicago) by 52 signatory states. It received the requisite 26th ratification on March 5, 1947 and went into effect on April 4, 1947, the same date that ICAO came into being. In October of the same year, ICAO became a specialized agency of the [United Nations Economic and Social Council](https://en.wikipedia.org/wiki/United_Nations_Economic_and_Social_Council) (ECOSOC). The Convention has since been revised eight times (in 1959, 1963, 1969, 1975, 1980, 1997, 2000 and 2006). As of 2013, the Chicago Convention has 191 state parties, which includes all member states of the [United Nations](https://en.wikipedia.org/wiki/United_Nations) except [Dominica](https://en.wikipedia.org/wiki/Dominica), [Liechtenstein](https://en.wikipedia.org/wiki/Liechtenstein), and [Tuvalu](https://en.wikipedia.org/wiki/Tuvalu) as well as the [Cook Islands](https://en.wikipedia.org/wiki/Cook_Islands). The convention has been extended to cover [Liechtenstein](https://en.wikipedia.org/wiki/Liechtenstein) by the ratification of [Switzerland](https://en.wikipedia.org/wiki/Switzerland) [2]. A text of Convention drawn up in the English, French, and Spanish languages, each of which shall be of equal authenticity, shall be opened for signature at Washington, D. C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention [3].

The Chicago Convention provided for the sovereignty of airspace above the territory of each state, together with five freedoms (later expanded to nine by the addition of four unofficial freedoms) which govern the freedom of states to operate air transport flights (including the carriage of passengers, cargo and mail) across, into and within the airspace of other states. Only the first two of these freedoms (right to overfly a foreign country without landing and right to refuel or carry out maintenance in a foreign country) apply automatically to signatory states, the remainder being subject to national agreement [4].

Three groups of legal rules defining the term “safety” can be distinguished.

The term is used in its most restricted sense in the first group. For example, article 5 says that Each contracting State agrees that all aircraft scheduled flight of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. So, each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribe routes, or to obtain special perm lesion for such flights. Article 8 - no aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of each authorization. Each contracting State undertake8 to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft [5].

Positions, emphasising the possible influence use of civil aviation on safety of other fields of public activities, except for civil aviation itself, are referred to the second group.So, preamble of the Convention on international civil aviation says that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically. Each contracting State may, for reasons of areas military necessity or public safety, restrict or prohibit uniformly the aircraft of other States from flying over certain areas of its territory, provided than no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of I reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization (article 9); each contracting State reserves the right, for reasons of public-order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph: provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers (article 35); the Organization may, with respect to air matters arrangement s within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace (article 64) [6].

The third group consists of the positions, where the term “safety” cannot be brought to its most restricted meaning only, and at the same time positions concerning the “safety of civil aviation” itself. Each contracting State undertakes to collaborate in securing the highest practicable degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation. To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international. standards and recommended practices and procedures dealing with: communications systems and air navigation aids, including ground marking; characteristics of airports and landing areas; rules of the air and air traffic control practices; licensing of operating and mechanical personnel; airworthiness of aircraft; registration and identification of aircraft; collection and exchange of meteorological information; log books; aeronautical maps and charts; customs and immigration procedures; aircraft in distress and investigation of accidents; and each other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate [7].

The problem of international legal enforcement of civil aviation is divided into two separate yet interrelated issues. Firstly, it is concerned to the adoption of appropriate measures and establishment of rules regarding the technical serviceability of aviation equipment as certain “safety measures”. Secondly, specific legal issues of fighting against acts of unlawful interference in civil aviation activities threatening its safety are the part of it. International legal rules regarding safety enforcement of international civil aviation have been developing in these two directions since the first years of aviation. Their analysis gives possibility to have a notion of the history and establishment of “international civil aviation safety” principle in international air law.

Literature

1. 1. [The Postal History of ICAO : The Chicago Convention](http://www.icao.int/secretariat/PostalHistory/the_chicago_convention.htm). – Available at:
2. [http://www.icao.int/secretariat/PostalHistory/the\_chicago\_convention.htm](http://www.icao.int/secretariat/PostalHistory/the_chicago_convention.htm%20)
3. Chicago Convention on International Civil Aviation. - Available at: <https://en.wikipedia.org/wiki/Chicago_Convention_on_International_Civil_Aviation>
4. A Decade of American Foreign Policy 1941-1949. - Available at: <http://avalon.law.yale.edu/20th_century/decad048.asp>
5. Chicago Convention. – Available a:t <http://www.skybrary.aero/index.php/Chicago_Convention>
6. Convention on International Civil Aviation – DOC 7300. Available at: <http://www.icao.int/publications/Documents/7300_orig.pdf>
7. Ibid.
8. Ibid.