

Acts Affecting the Safety of Civil Aviation in Saudi

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Abstract

The aircraft is a means of air navigation that the international community has taken care of and has sought to regulate the legal rules for the safety of civil aviation where a global plan for the safety of civil aviation was developed in 2010 with the existence of international conventions on the regulation of crimes against aviation security. This article aims to identify the acts and crimes against civil aviation with the statement of the air accident in Saudi Arabia and the subject was addressed through several points represented in the presentation, analysis and interpretation of the legal rules of the air incident and crimes on Flight in Saudi Law 1426, by following the comparative descriptive analytical approach. The results of the article indicated that the civil aviation Law was affected by the provisions of international conventions related to air transport with special rules for dealing with aviation accidents the article included two sections: the first section acts and crimes affecting the security of the aircraft, and came the second section entitled; the air accident and rescue and assistance.

Keywords

Aircraft Accident, Aviation Crimes, Rescue, Saudi Law

1. Crimes and Acts Committed against Aircraft

The provisions of the relevant international conventions approved by the Kingdom and the provisions of the regulations in force in the Kingdom shall apply to offenses and acts committed against the security and safety of civil aviation and aircraft (Article 153 of the Saudi civil aviation Law [1]) the international conventions that regulate the crimes and acts on board are:

- 1) The Tokyo convention on offenses and offenses committed on board aircraft.

- 2) The Hague convention for the suppression of unlawful seizure of aircraft.
- 3) The Montreal Convention of 2009 on Unlawful Acts related to the Safety and Security of Civil aviation.
- 4) Model legislation on certain offenses committed on board civil aircraft.

First: The Tokyo Convention on Certain Crimes and Other Acts Committed on Board Aircraft signed in Tokyo on 14 September 1963 is the first convention to establish rules on aircraft offenses containing 26 articles that entered into force on 4 December 2009, in accordance with article 1 of the Convention. The following offenses and acts [2]:

- 1) Offenses committed in contravention of the Penal Code; or national criminal law whether it is committed to persons, property or aircraft as the case may be.
- 2) Acts endangering the safety of the aircraft or passengers or their property.
- 3) Acts that violate the law and discipline on board the aircraft.
- 4) Acts or offenses committed on board the aircraft in the event of its flight in any Contracting State or in the event of its flight on the high seas or in any other area outside the territory of any State.
- 5) Illegal seizure of the aircraft as hijacking the aircraft. The Contracting State may take the necessary steps to restore the aircraft.

The Tokyo Convention excludes certain crimes:

The agreement excluded from the application of its provisions acts of seizure of political nature, knowing that these acts constitute the largest percentage of hijacking incidents (article of the Tokyo Convention, 1963) the convention does not apply to aircraft used by the military, customs or police (article 1/4 of the Tokyo Convention, 1963).

Purpose of the Tokyo Convention: the Convention applies to crimes that threaten the safety of persons or property on board a civil aircraft. It is the first international agreement to provide security protection for the aircraft and its passengers, crew, hospitality and property, and to maintain order within the aircraft while flying on the high seas or in any airspace not followed by any country, the agreement obliges the member state to take all possible measures to restore control of the aircraft to its authorized commander and allow passengers and crew to continue their journey as soon as possible.

Offenses on board an aircraft in the territory of an airport of a Contracting State if a person on board an aircraft in the event of a flight of violence or threatened to use it unlawfully to obstruct, seize or control the aircraft, or if he is about to do so this work the applicable law shall be applicable. Airport State Law this is stated in the article "when a person on board has unlawfully committed by force or threat thereof an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, 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 (Article 11 of the Tokyo Convention, 1963).

Applicable law under the Tokyo treaty of 1963:

The flag State shall have jurisdiction over the acts and crimes in the aircraft in accordance with article III of the Convention. However, article IV of the Convention excluded certain cases from the scope of application of the Tokyo Convention where each contracting State may exercise the right to intervene in order to exercise its criminal jurisdiction.

Second: Hague Convention on the Suppression of unlawful seizure of Aircraft the Convention was adopted by the International air law congress in The Hague on 16 December 1970 [3]. It entered into force on 14 October 1971, in relation to the legislative shortcomings of the Tokyo Convention. States sought to develop a convention to deal with what Tokyo; The Hague Convention criminalized abduction and unlawful seizure of aircraft. the Convention defined the abduction in Article 1 Anyone who is on board the aircraft is guilty of an offense if he unlawfully, violently or threatens to seize or control the aircraft or if he commits to commit any of these acts or if he participates with any other person who has committed or attempted to commit any of these acts (Farid, 2010) [4], and adopted several measures to deal with cases of kidnapping that threatened the safety of air transport and committed all its member states to a number of commitments, including (Article 2 of the Montreal Convention 1971:

- 1) Organizing or threatening the crime of kidnapping using force or by any other means with strict penalties.
- 2) Arrest, interrogate and transfer the hijacker to the competent security and judicial authorities to complete the investigation procedures and to determine the punishment in accordance with its criminal law.
- 3) Applying its judicial system to the crime of hijacking or acts of violence committed on board.
- 4) The hijacker shall be extradited to his country if he decides not to apply his judicial system to him.
- 5) Re-control the plane to the pilot and make all possible efforts for all aboard to facilitate the continuation of their flight as soon as possible.

Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971. The 1971 Montreal Convention dealt with acts that were outside the scope of the hijackings and prohibited the destruction of aircraft or the placement of an odometer that would destroy the aircraft or endanger the safety of life, property and aircraft. The obligations of the Montreal Convention on Member States are very similar to those of the Hague Convention, but they have been extended to the scope of their application. The aircraft is considered to be in service from the moment it begins. where ground personnel are prepared to make a certain journey until the expiration of 24 hours per trip, To include the period leading up to the flight phase, which begins from the closure of the doors of the aircraft to take off and even open after landing because of the possibility of the plane's exposure to any risks in this period (Mustafa, 1997) [5].

Applicable law of the Montreal Convention: each contracting State shall have the right to take the necessary measures to determine its legislative powers with

respect to criminal acts in the following cases (Anwar, 2010) [6]:

- 1) When the offense is committed in the territory of that State.
- 2) When the offense is committed against or on a registered aircraft of that State article 2 of the Montreal Convention 1971).
- 3) When the aircraft against which the offense is committed falls on its territory and the alleged offender is still on board.
- 4) When the offense is committed against or on board a chartered aircraft to a less or whose address is his principal place of business, or if he has no work address, his place of residence in that State.

A. Identification of Crimes in the Saudi Civil Aviation System 1426H:

Saudi law has agreed with the international conventions, especially the 1971 Montreal Convention, by organizing legal rules for illegal acts that affect the security of civil aviation and where it is considered a crime to initiate, commit or take part in (Articles 154-155 of the Saudi Civil Aviation Law, 1426H);

First: Acts that occur to persons whether passengers, aircraft persons or airport personnel:

- 1) That a passenger commits acts of violence against a person on board an aircraft in flight if such work would endanger the safety of the aircraft.
- 2) The offender acts because of acts of violence against a person at an airport that serves civil aviation and causes the act or is likely to cause serious injury or death.

Second: Destruction of the plane:

- 1) The offender destroys an aircraft in service, or causes damage that makes it incapable of flying or is likely to endanger its safety and is at risk of flying.
- 2) The perpetrator by any means place or cause the placing of an instrument or material in an aircraft in service that is likely to destroy the aircraft or cause damage to it that is unable to fly or cause damage that may endanger its safety and is at risk of aviation.

Third: Acts on Airports or Air Navigation Facilities Affecting Aircraft Safety:

- 1) The offender destroys, destroys, or interferes in the operation of air navigation facilities or installations if any of these acts endanger the safety of aircraft in flight
- 2) The offender shall seize equipment for air navigation services or any devices, machines or wires that are necessary for the safety of aviation or related thereto.
- 3) That the offender destroys or seriously damages the facilities and facilities of an airport serving civil aviation or aircraft not in service in which it is located or obstructs the services at the airport if such an act jeopardizes or jeopardizes the safety of the airport.

Fourth: Acts that constitute hijacking of the aircraft:

- To initiate the hijacking of the aircraft or to unlawfully take possession of the aircraft in case of flight by force or threat of use of force or in any form of coercion, control of its leadership or involvement with another person in its abduction.

Fifth: Acts occur from passengers on board: acts harmful to aviation safety are divided into two types: acts involving violence, theft, and violation of legal instructions:

❖ Acts involving violence:

- An assault, intimidation, physical threat or speech against a member of the crew of the aircraft, which affects the performance of the person's duties or reduces his or her ability to perform such tasks.
- Physical violence against a person, assault, harassment or sexual harassment against a member of the crew or passengers of the aircraft.
- Assault, intimidation or threats, physically or in speech against another person.
- Intentionally causing damage or destruction of property.
- Effect of drinking alcohol or drug use.
- Theft of any property of the aircraft or passengers of the aircraft or crew.

❖ Acts involving violation of the instructions and legal orders of the aircraft:

- Refusal to follow the legal instructions issued by the pilot or crew member on his behalf for the purpose of securing the safety of the aircraft or any person or property on board, or for the purpose of maintaining order and discipline on board.
- Do not smoke, smoke in the toilet, or elsewhere.
- Tampering with smoke detectors or other safety devices on board.
- Operation of portable electronic devices when prohibited.
- Refuse to sit in the seat or refuse to tie the belt.

❖ Reporting false information: to report information known to be incorrect and thus endanger the safety of the aircraft.

B. Powers of the pilot and crew: the civil aviation authority grants the pilot of the aircraft the power to take any action that he deems necessary and preventative measures, including the restriction of the offender's freedom, and against any person who commits a crime that is prejudicial to the safety of the aircraft, life or property (article 157 of the Saudi civil aviation law).

C. Powers and duties of the authorities: In the event of an offense, the competent authorities of the Kingdom of Saudi Arabia shall take the following measures¹⁵⁸of the Saudi Civil Aviation Law).

- 1) Re-control the aircraft for its commander or maintain control over it.
- 2) The return of the plane that landed in the Kingdom and the cargo on board to persons legally entitled to it, Allowing passengers and crew to continue their journey as quickly as possible.
- 3) Downloading the accused the competent authorities in the Kingdom shall permit the pilot of the aircraft to remove or extradite any person.

The Criminal Courts of the kingdom shall have jurisdiction over all offenses which are in violation of the provisions of the Saudi Civil Aviation Law or its regulations or decisions or directives issued therein, if committed in the territory of the Kingdom or on board aircraft registered in the Kingdom or aboard air-

craft operated by a Saudi over the high seas or places other than Subject to the authority of any State.

2. Aircraft Accidents and Rescue Operations

2.1. Aircraft Accident

Defined by the World Civil Aviation Organization in Annex XIII as: An incident related to the operation of the aircraft, between the moment that any person ascends the aircraft with the intention of traveling, The moment when all the passengers leave this plane, And one or more persons have been killed or seriously injured or whose aircraft has sustained permanent or structural damage or whose aircraft is missing or is inaccessible”.

Article 1 of the Sudanese Civil Aviation System 2010 defines an aviation incident as any incident related to the operation of the aircraft and is between the time that any person ascends to the aircraft with the intention of flying until the time when all persons leave the aircraft and one or both of the following occur: The death or serious injury of any person as a result of being on the plane or having a direct contact with him or anything else fixed therein. The plane was seriously injured, and article 40 paragraph 1, of the Saudi Civil Aviation Law defines it as any situation or circumstance that could lead to an accident or accident, and Article 38, paragraph 1, of the UAE Civil Aviation Regulations defined the accident as any incident related to the operation of the aircraft between the time that any person ascends to the aircraft with the intention of flying until the time. All persons leave the aircraft and results in one of the results the following: Any person has been seriously injured or died because of being on the plane or having a direct contact with it or any part thereof or because of being exposed to the exhaust of the jet. The aircraft is seriously injured. Loss of or inability to access the aircraft.

The International Civil Aviation Organization (ICAO) was interested in developing a global plan to improve civil aviation safety and reduce accidents. In Annex A of the Global Plan of Safety, which urged Contracting States to support the objectives of the Global Aviation Safety Plan (Civil Aviation Organization October 2010) [7]:

- 1) Implementation of the State Safety Program;
- 2) Expedient implementation of aviation safety management systems throughout the aviation industry to complement the current regulatory framework;
- 3) The exchange of intelligence information for operational safety among States and relevant aviation stakeholders;
- 4) Ensure that the public of travelers has access to easy-to-understand, safety-related information to enable them to make informed decisions;
- 5) Create an environment in which reporting and information exchange are encouraged and facilitated, and timely preventive actions are taken when gaps are reported.

The Global Plan for Aviation Safety included standards for Contracting States, including Saudi Arabia, to reduce civil aviation accidents (civil Aviation Organization October 2010) [8]:

- 1) To monitor air safety and to work towards the implementation of the objectives of the Global Aviation Safety Plan.
- 2) Taking remedial measures to address weaknesses in aviation security, airport security and the like.
- 3) Air safety control in aircraft from the checks and papers of the validity of the flight aircraft and their full compliance with periodic maintenance with the verification of the validity of aircraft entering over its territory.
- 4) Exchange of safety information between Contracting States.
- 5) Develop aviation safety guidelines to minimize aviation risks. In accordance with the Chicago Convention of 1944. In the event of an accident of an aircraft of a Contracting State in the territory of another Contracting State resulting in death, serious injury or significant technical damage to the aircraft or air navigation facilities equipment, the State in which the incident occurred shall conduct an investigation of its circumstances in accordance with the procedures recommended by the International Civil Aviation Organization Which are permitted by state regulations. The State in which the aircraft is registered must have the opportunity to appoint observers to attend the investigation and the reporting State shall report its report and results to the State of registration of the aircraft (Article 26 of the Chicago Convention, 1944 [9]).

Accident Investigation:

The Saudi Civil Aviation Law specified that the investigation of aviation accidents is carried out through an Independent specialized department and shall have the jurisdiction to consider all incidents and crimes occurring in the following cases (Article 107 of the Saudi Civil Aviation Law, 1426H).

- If the accident occurred to any civil aircraft in the territory of the Kingdom of Saudi Arabia.
- If the accident occurred to any national aircraft outside the territory of the Kingdom of Saudi Arabia.
- If the accident occurred to an aircraft operated by persons with Saudi or UAE nationality if the incident took place in the high seas territory or on territory not under the sovereignty of a state.
- The incident occurred to any civilian aircraft in the territory of another State and requested the Investigation Office to assist in conducting the investigation at the request of the competent authorities of that State, if that State bears all the costs and expenses necessary for the conduct of such an investigation.

Liability for damage caused by others to the surface of the Earth caused by air accidents:

The Saudi law has been silent for reference, so we refer to the Convention on Compensation for Damage to Third Parties Resulting from Acts of Unlawful Interference, Under the second paragraph of Article II, the Montreal Convention

2009 shall apply to damage to third parties in the territory of a State Party caused by an aircraft in flight on an international flight as a result of an act of unlawful interference. this Convention also applies to damage in a non-State party, the agreement obligates the operator of the aircraft to assume responsibility for compensation for damage within the scope of this agreement provided that the cause of the damage is an aircraft in the case of aviation, and the damage was directly from the aircraft, or if the damage caused by another accident is not compensable and the agreement obliges the operator to compensate for the following direct damage [10] (Article 3, Montreal 2009):

- Damages caused by death or
- Injuries resulting from physical injury or
- Injuries caused by mental injury or
- The damage caused by mental injury if it is the result only of a mental illness that can be identified as a result of physical injury or direct exposure to the possibility of imminent death or
- Damages to property of real estate or movables
- Environmental damage, if such compensation is provided for, and to the extent provided for under the law of the State Party in whose territory the damage occurred.

Cases of compensation for damage in Saudi territory

Any person injured on the ground by an aviation accident in the Kingdom shall be entitled to compensation from the aircraft operator Once it has been established that the damage has arisen directly from the aircraft in the case of flight or from a person or something fallen from it however, the following damages may not be compensated (Article 141 of the Saudi Civil Aviation Law 1426)

- 1) The damage caused to others on the surface of the Earth in the Kingdom if it is indirect to the accident of the aircraft which occurred or arises from the mere passage of the aircraft into airspace in accordance with the applicable air traffic rules.
- 2) The damage caused to an aircraft in the event of flight or injury to persons or funds on board the aircraft.
- 3) Damage occurring on the ground if the liability for such damage is regulated by a contract between the injured party and the operator or person who has the right to use the aircraft at the time of the injury, or regulated by labor legislation applicable to labor contracts concluded between such persons.
- 4) Damage caused by aircraft used in military, customs and police services.
- 5) Nuclear damage.

2.2. Measures for Assistance and Rescue Operations

In Saudi law, search and rescue is known as any aid provided, even if the aircraft is declared destroyed or threatened by danger Or difficulties or doubts or fears for their safety, including the aid provided to those on board (article 120 of the Saudi Civil Aviation Law, 1426), no person shall refrain from providing any search and rescue assistance in his capacity or the nature of his work shall enable

him to provide such assistance, when requested by the competent authority or concerned.

The obligation to research and assist aircraft in the event of an air accident is an international legal obligation under the Chicago Convention in Article 25 Where each Contracting State may, to the extent possible, assist aircraft in danger of over its territory and authorize the aircraft owner or the authorities of the State in which the aircraft is registered to provide the assistance required by the circumstances under the control of its authorities and Each Contracting State in the search for missing aircraft shall contribute to the joint measures to which it shall be recommended from time to time in application of this Treaty.

2.3. Search and Rescue Procedures

Organizing search and rescue operations in the Kingdom of Saudi Arabia. The National Authority for Civil Aviation in the Kingdom is responsible for carrying out search and rescue operations for air accidents in the different regions of the Kingdom and all authorities and relevant authorities to coordinate with them , The civil aviation system shall ensure that the owner, operator or commander of any aircraft (Article 121 of the Saudi Civil Aviation Law, 1426H), operator or commander complies with the orders of the National Civil Aviation Authority to assist in the search and rescue operations requested by the commission when necessary when the aircraft's capabilities permit . According to Article 231 of the Saudi Civil Aviation Law, the board of Grievances shall have jurisdiction over cases arising from search and rescue at the time of the incident in the Kingdom or on the high seas or in a place not subject to the sovereignty of any State. In one of the following cases:

- 1) If the aircraft being searched or rescued is registered in the Kingdom.
- 2) If the plaintiff holds the nationality of the Kingdom.
- 3) If the aircraft being searched or rescued is in the territory of the Kingdom.

The claims arising from search and rescue shall not be heard after the expiry of two years from the date of completion of the search and rescue. The Commission shall, when necessary.

3. Conclusions

The study dealt with the actions that affect the safety of civil aviation and represented in the crimes and actions harmful to aviation security, air accident, rescue and assistance in accordance with the Saudi Civil Aviation Law (2005-1426H) with a review of the most important international conventions the main results are as follows:

- 1) Apply to crimes and acts committed against the security and safety of civil aviation and aircraft, the rules of treaties and international conventions related to the security of civil aviation approved by the Kingdom.
- 2) The Saudi Civil Aviation Law since 2005 has not been renewed in comparison to the Gulf laws in the region such as the Bahraini law, which happened in 2013, perhaps because of the lack of accidents and crimes related to aviation in

Saudi Arabia Because Saudi Arabia has developed a plan to improve the safety of civil aviation and reduce accidents and implemented on the ground.

Recommendations: The definition of the air incident is clearly defined in the Saudi Civil Aviation Regulations (1426H): “Aircraft accident means any incident related to the operation of an aircraft located at any time since the boarding of any aircraft for the purpose of flying until all these persons have been removed from the aircraft”.

- Any person who is or seriously injured as a result of his presence on board or directly in contact with any part of the parts connected to it or separated from it or as a result of direct exposure to the jet blight and does not include injuries caused by natural causes or caused by the person himself or caused by Other persons are not involved in the accident and injuries to an infiltrator are hidden in places other than those normally available to passengers or crew members.
- Injury to the aircraft is caused by damage or structural failure that may adversely affect the structure, performance or flight characteristics of the aircraft, and requires major repairs or replacement of damaged parts, including engine failure or damage when damage to the engine, its covers, accessories, fans or wings Antennas, tires, brakes, cruise lines, small external surface dents or small holes in the surface or outer fabric of the aircraft.
- The distinction between the accident and the civil aviation incident defined as “Aircraft Incident: Any incident not defined by the aircraft accident, associated with the operation of the aircraft and which affects or may affect the safety of operation or endangerment of the aircraft shall be compromised.
- Determination of electronic methods for reporting foreign aviation accidents in the Kingdom.
- Determining the means and methods of assistance provided to aircraft at risk in the Saudi region.
- Updating Article (131) of the Civil Aviation Law 1426 concerning search and rescue claims from the jurisdiction of the Board of Grievances, replacing them with the following: “Criminal courts and the Public Prosecution shall have jurisdiction over the claims arising from the research. Rescue at the time of the accident in the Kingdom or on the high seas or in a place not subject to the sovereignty of any State”.
- Translation of agreements related to aviation and rescue crimes in Arabic and published on the website of civil aviation safety specialist.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

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