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PROSPECTS OF DEVELOPMENT OF UKRAINIAN AIR TRANSPORT REGULATION

Dmytro Bugayko, Anastasiia Tkachenko, Danilo Grabovskiy *"Prospects of development of Ukrainian air transport regulation". The world transport system is unthinkable without aviation. Currently, there is a positive trend in the field of air transportation, and the role of aviation on a global scale cannot be overestimated. Today our state is in a state of war, but we can claim that Ukraine has significant potential for the development of the aviation market. Before the war, the passenger air transportation market had the highest growth rates among all modes of transport in Ukraine. Such prospects are due, first of all, to significant unmet demand for air transportation, as well as a favorable geographical location for the development of transit transportation. At the same time, the development of instruments for regulating the industry at the national level is of particular importance. This article is devoted to finding ways to improve the legislative and regulatory framework of air transport.*

Keywords: air transport, regulatory framework, aviation safety, aviation security, national level.

Дмитро Бугайко, Анастасія Ткаченок, Данило Грабовський. *"Перспективи розвитку регулювання авіаційного транспорту України". Світова транспортна система неможлива без авіації. В даний час спостерігається позитивна тенденція у сфері авіаперевезень, і роль авіації у світовому масштабі важко переоцінити. Сьогодні наша держава перебуває у стані війни, але ми можемо стверджувати, що Україна має значний потенціал для розвитку авіаційного ринку. До війни ринок пасажирських авіаперевезень мав найвищі темпи зростання серед усіх видів транспорту*

України. Такі перспективи зумовлені, передусім, значним незадоволеним попитом авіаперевезення, і навіть вигідним географічним становищем у розвиток транзитних перевезень. При цьому особливе значення має розвиток інструментарію регулювання галузі на національному рівні. Пошуку шляхів удосконалення законодавчої та регуляторної бази авіатранспорту присвячується ця стаття.

Ключові слова: повітряний транспорт, нормативна база, безпека авіації, авіаційна безпека, національний рівень

Introduction. After the war, there is every chance to create a full-fledged competitive aviation market in Ukraine and develop a European logistics hub. According to pre-war forecasts, by 2030, passenger traffic through Ukrainian airports will increase 4.3 times compared to 2017 – to 71.2 million out of 16.5 million people [1]. Unfortunately, the war makes adjustments to these forecasts. However, it can be argued that the cessation of hostilities will lead to a rapid increase in traffic volumes. A similar situation was observed around the world with an unprecedented reduction in air travel during the COVID-19 pandemic. ICAO forecasts that air passenger demand in 2023 will rapidly recover to pre-pandemic levels on most routes by the first quarter and that growth of around 3 per cent higher than 2019 figures will be achieved by year end. Airline industry operating profits are expected to reach \$22.4 billion in 2023, much improved over the December forecast of a \$3.2 billion operating profit. It is also more than double the \$10.1 billion operating profit estimated for 2022 [2].

However, at present there are many obstacles on the way to this goal, and this is only one of them, the elimination of which requires appropriate scientific research. This determines the relevance of the study. One of the aspects of regulatory regulation of international air passenger transportation is the safety of passengers, aviation personnel and personnel involved in aviation activities, and aircraft.

Currently, the legislation of Ukraine contains regulations designed to ensure the safety of the use of aircraft in Ukraine, as well as passengers, aviation personnel and personnel engaged in aviation activities. However, despite the legal regulation of this

issue, there are many problems associated with ensuring the safety of aircraft use that require immediate consideration and solutions. Among them are the imperfection of the regulatory framework for ensuring flight safety, as well as the inconsistency of information support for flight safety with modern conditions, which complicates the situation.

The practice of Ukrainian and foreign air carriers shows that aviation is a modern, safe and popular type of passenger transportation. In general, the development of national regulation of air transport corresponds to international legislation, and also contributes to an increase in the number of such transport [3, p. 150].

The article is a logical continuation of a number of publications devoted to the development of air transport sustainable development of Ukrainian scientists D.Bugayko [4 – 10], Y.Kharazishvili [5 - 6, 8], M.Hryhorak [6 – 7], Y.Ierkovska [9 – 10], O. Ovdiienko [7], V. Marchuk [7], V Lyashenko[5, 8], V Sokolovskiy [8], V. Baranov[8], M. Bahrii [10], Polish scientists (Z.Zamiar [6]), Azerbaijan Scientists F. Aliev [10] and scientists of other countries.

The purpose of the article is to provide structural analysis and search for development paths of legislative and regulatory framework of Ukrainian air transport in order to ensure it sustainable development.

Presentation of the main results.

State regulation of air transport of Ukraine. As is known, the sources of legal regulation of international transport are not only international legal acts, but also national legislation of individual countries. Ukrainian legislation in this area needs to be revised due

to the low effectiveness of legislative provisions. State regulation of civil aviation activities of Ukraine is based on the Constitution of Ukraine, the Air Code of Ukraine dated 19.05.2011 No. 3393-VI1, other legislative acts, national regulatory and legal acts, state and industry standards, guiding documents on standardization, regulatory and legal acts of the former Ministry of Civil Aviation of the USSR, which have not lost their relevance and do not contradict the Constitution and current legislation of Ukraine, acts of international air law, documents of international organizations of which Ukraine is a member [5, 11].

The sustainable development of aviation transport is carried out in the context of comprehensive improvement of the transport system of Ukraine. In 2018, the Decree of the Cabinet of Ministers of Ukraine No. 430 approved the National Transport Strategy of Ukraine for the period until 2030. The implementation of the National Transport Strategy consists in ensuring the sustainable development of the transport sector of the economy.

The strategy includes five priority directions: development of effective public administration in the transport sector; provision of quality transport services and integration of the transport complex of Ukraine into the international transport network; ensuring sustainable financing of the transport complex; increasing the level of safety in transport; achieving urban mobility and regional integration in Ukraine. Air transport occupies a special place among its strategic initiatives.

In order to develop passenger air transportation, it is proposed to: continue certification of compliance with safety requirements at Ukrainian airports; to ensure compliance of the airport certification procedure and airworthiness review with the provisions of EU directives; to solve the issue of lack of funding needed to support infrastructure development; continue the process of harmonization of national legislation with the EU; create conditions for

promotion of new air carriers to the market, first of all, Low Cost models; systematically implement the policy of liberalization of the aviation market. In order to develop cargo air transportation, it is proposed to ensure the investment of modern multimodal service-oriented hubs, including cargo air traffic; to develop and implement a program for the development of cargo air transportation; to provide appropriate financing for the development of aviation cargo terminals and infrastructure [5, 12].

The development of airports and their infrastructure is the cornerstone of the sustainable development of air transport and aviation logistics. Considerable attention is paid to this direction by the state. Thus, on February 24, 2016, Resolution No. 126 of the Cabinet of Ministers of Ukraine approved the State target program for the development of airports for the period until 2023. The purpose of the Program is to ensure the sustainable development of air transport and its infrastructure, the implementation of world and regional standards in the operation of the national airport system, the development of transit and transfer transportation, increasing the efficiency of state property management.

Expected results of the Program: increase in air passenger traffic; doubling the capacity of airports; reduction of time for ground maintenance of each aircraft to 35-40 minutes; double the transit potential; development of public-private partnership and non-aviation activities of airports; creation of favorable conditions for Low-Cost airlines, creation of additional jobs. Unfortunately, the war temporarily suspended the possibility of its implementation, but after its end, the plan will be implemented [5, 13].

State regulation of aviation safety of Ukraine. According to the provisions of Annex 19 "Safety Management" to the Convention on International Civil Aviation (Chicago Convention of 1944) of the ICAO at the national level, the strategic management of aviation safety is implemented within the

framework of the State Aviation Safety Program (Safety State Program – SSP) [14].

In Ukraine, this area is regulated by the Flight Safety Program in the field of civil aviation, which was approved at the meeting of the Aviation Safety Council of the State Aviation Service of Ukraine on March 27, 2018. The program has a structure that meets ICAO requirements.

However, its main drawback is the level of signatories. Unlike most countries of the world, where this Program was approved by a legislative body (parliament), in some cases - by the Cabinet of Ministers or the National Security and Defence Council, in Ukraine it is promulgated at the regulatory level. Therefore, the basis of the Program is the resource provision of the safety of state aviation transport.

Only under the condition of real state support is it possible to assert the effectiveness of the Program. It also seems relevant to adapt the provisions of the program to the conditions of military operations and post-war reconstruction of the industry. This is undoubtedly a sure step forward on the way to the development of the national culture of air transport safety. [15, 16].

State regulation of aviation security of Ukraine. On March 21, 2017, the State Program of Aviation Security of Civil Aviation (hereinafter referred to as the Program) was adopted [17], which made in accordance with the standards and recommended practice of the Convention on International Civil Aviation (Chicago, December 7, 1944) and obligations arising from Ukraine's participation in the Convention on Crimes and Certain Other Acts Committed on board aircraft (Tokyo, September 14, 1963), the Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, December 16, 1970), the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971), from the Protocol on Combating Unlawful Acts of Violence at Airports Serving International Civil Aviation (Montreal, February 24, 1988), the

Convention on the Marking of Plastic Explosives for Their Identification (Montreal, March 1, 1991), Annex 17 to the Convention on International Civil Aviation Security. Protection of International Civil Aviation from Acts of Unlawful Interference", Aviation Security Manual (Doc 8973), as well as other international acts and acts of Ukrainian legislation. That is, the State Program of Aviation Safety of Civil Aviation is developed in accordance with international standards.

However, the national mechanism for its implementation needs continuous development. In particular, the purpose of this Program is the distribution of responsibilities, establishment of implementation rules and implementation of measures to ensure the aviation safety of passengers, aviation personnel and personnel involved in aviation activities, aircraft, property transported by aircraft, facilities subjects of aviation activity regardless of the form of ownership and subordination.

In accordance with the provisions of Chapter 5 of the Program [17], the authorized body in the field of civil aviation security is the central body of the executive power, which implements state policy in the field of civil aviation (hereinafter - the authorized body on civil aviation issues). It follows from this that the powers of this body include the development, implementation and enforcement of the State Program of Civil Aviation Safety, in particular, in the area of ensuring the civil aviation safety of Ukraine.

The relevant duty to ensure aviation security is indirectly assigned to state authorities by Chapter 10 of the Rules of Air Transportation and Passenger and Baggage Handling, which states that "the air carrier has the right to refuse transportation at any stage of air transportation, cancel a reservation or remove a passenger from the aircraft:

- in connection with the need to comply with the requirements of the legislation of the country of departure, arrival or transit;
- at the request of the authorized bodies of the state authorities of Ukraine" [18].

Despite the high level of aviation security regulation in the country, war and the recovery of the system after military operations will require a review of existing and development of new approaches to aviation security, taking into account the changing nature and intensity of existing and newly emerging threats. Actual is the need for a strategic and operational response to new risks. By authors point of view, the Aviation Transport Strategy for the period until 2030 needs to be approved as soon as possible, according to the provisions of which "the ways to solve existing problems in the field of aviation safety are:

- implementation of state policy in the field of aviation security, taking into account the State Program of Aviation Security of Civil Aviation, approved by the Law of Ukraine dated March 21, 2017 No. 1965-VIII, ensuring supervision of the state of its implementation by subjects of aviation activity in accordance with Annex 17 to the Convention on International Civil Aviation;

- formation of a single center for collection and analysis of events in civil aviation to make the optimal decision in the event of an incident or an act of illegal interference" [19].

In our opinion, such measures will help to significantly develop aviation security

defense measures, which will contribute to more effective protection of the rights of passengers of international air transportation carried out by airlines, as well as the crews of aircraft.

Conclusions. In general, summarizing the above, we can conclude that the national legislation of Ukraine, which provides legal regulation of international air transportation of passengers, currently still needs to be improved.

In particular, the problem is that information support for aviation security does not fully correspond to modern conditions. In addition, the time has come to adopt an Air Transport Strategy that takes into account the military environment and with a focus on responding to new risks in the post-war recovery of the industry.

Moreover, there is already a fairly successful draft Air Transport Strategy until 2030, which could be taken as the basis for a new strategy adapted to realities.

Finally, it should be noted that the problems of air transport regulation require further scientific research in order to find ways to improve national legislation in this area in order to increase the level of protection of the rights of passengers and flight crews.

References

1. Official website of the Ministry of Infrastructure of Ukraine. URL: <http://www.mtu.gov.ua/> (date of application: 26.01.2020).
2. Directors General Of Civil Aviation - ICAO European And North Atlantic Regions 2023 Meeting (EUR/NAT-DGCA/2023) (Paris, France, 20 June 2023), URL: <http://surl.li/nfjeo>.
3. Radchuk O. P. International legal regulation of air transportation. Law forum. 2015. No. 2. P. 144-151.
4. D. Bugayko, Yu. Kharazishvili. Theoretical principles of strategic aviation safety management in the context of ensuring sustainable development of the national economy. Bulletin of Economic Science of Ukraine. 2020. № 1 (38). P. 166-175.
5. Kharazishvili Yu.M., Bugayko D.O., Lyashenko V.I. Sustainable development of aviation transport of Ukraine: strategic scenarios and institutional support: monograph / edited by Yu.M.Kharazishvili; NAS of Ukraine, Institute of Industrial Economics. Kyiv, 2022. 276 p.

6. D.Bugayko, Yu. Kharazishvili, M.Hryhorak, Z.Zamiar. Economic Risk Management of Civil Aviation in the Context of Ensuring Sustainable Development of the National Economy. Logistics and Transport– Wroclaw: International School of Logistics and Transport in Wroclaw. – 2020. - №1-2(45-46). – P.71– 82.
7. Ovdiienko O., Hryhorak M., Marchuk V., Bugayko D. An assessment of the aviation industry's impact on air pollution from its emissions: worldwide and the Ukraine. Environmental & Socio-economic Studies. [Katowice]. 2021. Vol. 9. № 2. P. 1-10.
8. Yu Kharazishvili, D Bugayko, V Lyashenko, V Sokolovskiy, V Baranov. Strategizing for sustainable development of transport systems in the safety dimension. IOP Conference Series: Earth and Environmental Science. IOP Publishing. P. 012025.
9. Dmytro Bugayko, Yuliya Ierkovska. Institutional Measures of Air Transport Safety Strategic Management at the Level of State Regulation. Intellectualization of Logistics and Supply Chain Management. The electronic scientifically and practical journal v.9 (2021). P.6 – 19. ISSN 2708 - 3195.
10. Dmytro Bugayko, Yuliya Ierkovska, Fariz Aliev, Mariia Bahrii. The Concept of National Integrated Risk Management of Aviation Transport of Ukraine. Intellectualization of Logistics and Supply Chain Management. The electronic scientifically and practical journal v.10 (2021). P.6 – 18. ISSN 2708-3195. 1
11. Air Code of Ukraine: Law of Ukraine dated 05/19/2011 No. 3393-VI. Information of the Verkhovna Rada of Ukraine. 2011. No. 48-49. Art. 536.
12. On the approval of the National Transport Strategy of Ukraine for the period until 2030: Decree of the Cabinet of Ministers of Ukraine dated 30.05.2018 No. 430-r. Government courier. 2018. No. 120 (June 27).
13. On the approval of the State target program for the development of airports for the period until 2023: Decree of the Cabinet of Ministers of Ukraine dated February 24, 2016 No. 126. Government courier. 2016. No. 41 (March 2).
14. ICAO. Annex 19 "Safety Management » to the Convention on International Civil Aviation (Chicago Convention of 1944).
15. Safety State Program on Aviation Safety, June 16, 2021. Decree of the Cabinet of Ministers of Ukraine No. 656 URL: <https://zakon.rada.gov.ua/laws/show/656-2021-%D1%80#Text>.
16. Bugayko D., Kharazishvili Y., Liashenko V., Kwilinski A. Systemic approach to determining the safety of sustainable development of air transport: indicators, level, threats. Journal of European Economy. Ternopol: West Ukrainian University, 2021. Vol. 20.1 (76). P. 146-182.
17. On the State Program of Aviation Security of Civil Aviation: Law of Ukraine dated March 21, 2017 No. 1965-VIII. URL: <https://zakon.rada.gov.ua/laws/card/1965-19> (date of application: 26.01.2020).
18. On the approval of the Aviation Rules of Ukraine "Rules of Air Transportation and Handling of Passengers and Baggage": Order of the State Aviation Service of Ukraine dated November 26, 2018 No. 1239. URL: <https://zakon.rada.gov.ua/laws/show/z0141-19> (date of application: 01.26.2020).
19. Aviation transport strategy for the period until 2030: project. URL: www.mtu.gov.ua (date of application: 26.01.2020).