

ПОВІТРЯНЕ, КОСМІЧНЕ, ЕКОЛОГІЧНЕ ПРАВО

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MANAGEMENT SYSTEM FOR AVIATION SECURITY SUPPORT

In the article the problem of aviation security from the standpoint of administrative law. Identify the subjects and objects of aviation security. Establish the signs of this category. Proposed changes to the current legislation on ensuring safety management of aviation.

Key words: aviation, security, administrative law, system security management.

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Система управління забезпечення авіаційної безпеки

У статті розглядається проблема забезпечення авіаційної безпеки з позицій адміністративного права. Визначаються суб'єкти та об'єкти забезпечення авіаційної безпеки. Встановлюються ознаки даної категорії. Пропонуються зміни до чинного законодавства з питань забезпечення управління безпекою авіації.

Ключові слова: авіація, безпека, адміністративне право, система безпеки, управління.

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Система управления обеспечения авиационной безопасности

В статье рассматривается проблема обеспечения авиационной безопасности с позиций административного права. Определяются субъекты и объекты обеспечения авиационной безопасности. Устанавливаются признаки данной категории. Предлагаются изменения в действующее законодательство по вопросам обеспечения управления безопасностью авиации.

Ключевые слова: авиация, безопасность, административное право, система безопасности, управление.

Problem definition. Nowadays aviation has grown into a global international transport system that has no equal among the other kinds of transport. However, the peculiarity of modern conditions of air transport usage in Ukraine is that during air transportation by the operator often two conflicting objectives can be solved: to obtain the maximum profit and to ensure flight security.

A number of the aviation incidents which have happened in recent years demonstrate that achievement of high economic indicators is often put by the operator above ensuring the established acceptable level. All this demands constant participation of the state in regulation of activity in

the field of aircraft. The most important component of state regulation at the present stage is the legal regulation of safe activity of aircraft and use of airspace. In 2003 the law «About the State Program of an Aviation Safety of the Civil Aviation» [1] was adopted in Ukraine. The program is developed on the basis of the Appendix 17 to the Convention on international civil aviation «Safety. Protection of international civil aviation from the acts of illegal intervention» and the Safety Manual for protection of the civil aviation from the acts of illegal intervention. Besides, there is a need for scientific research of separate aspects of safety of use of this type of transport. The main direction of the legal

research is assessment of legal risks of negative consequences from use of this type of transport. The subjects of the legal risks are the participants of the aviation accident and the third parties who suffered losses.

The main direction to protect the aviation security from the perspective of legal science is the counter-terrorism and the highest level of the protection of the pilots, passengers and cargo.

Analysis of the latest research and publications. Various aspects of administrative-legal support of safety of civil aviation in Ukraine covered in the scientific works of Bychkov A. S., Hrabovska H. M., Goncharuk S. T., Husar O. A., Gizhevskiy V. K., Darahanova N. V., Zabanyi H. H., Eryashov E. K., Nashinets-Naumova A. Y., Kalyuzhnyi R. A., Kolpakov B. K., Ryzhyi V. I., Filippov A. V., etc. but complexity of the question, a condition of the Ukrainian aircraft, change in the legislation of the country require constant attention of scientists to this problem.

The purpose of the article consists in carrying out the analysis of problems of ensuring aviation safety from positions of administrative law.

Statement of the base material. The main mechanism to protect aviation against terrorism is the administrative mechanism of aviation security protection [2]. The practical aspect for implementation of the mechanism of the aviation security is: a) provision of security of the aviation terminals; b) consolidation of role of the law enforcement authorities during the monitoring and forecasting of terroristic threats; c) monitoring of the situation in the territory near the aviation terminal; d) constant supervision over the suspicious persons and their preventive examination; e) analysis of the risky and suspicious situation around the terminal, inside the terminal, on the takeoff strip and etc.

The use of the aviation for the social needs gives the possibility to state of the existence of the category «management system of aviation security protection».

This system consists of the two levels: theoretical (provision of social safety on the aviation transport) and practical (implementation of the provisions of international and national

legislation to resist terrorism on the aviation transport).

The main participants (subjects) of the safety provisions on the aviation transport according to the administrative law are: the governmental authorities, law enforcement authorities, individuals and legal bodies, local authorities. The subjects of the public security on the aviation transport are: passengers (individuals), pilots (administrative aviation staff), cargo, plains, additional transport, etc.

The content of the public security on the aviation transport is considered to be the activities of the executive authorities and local authorities, law enforcement authorities and other subjects of the public security achieving the absence of threats and danger for the society and individuals who use the aviation transport regulated by the administrative law.

One of the elements of aviation security protection is the management. In the aspects of the management research this is the influence of the subjects of the aviation security on the object in order to achieve the absence of the threats [3].

The management of the aviation security is executed using the administrative mechanisms. These administrative mechanisms are the coercion. From the perspective of aviation security the coercion is the mean to remove all threats and dangers.

The peculiarity of the public security on the aviation transport is that the activity and the influence of the executive authorities and local authorities, other subjects of the public security is directed on monitoring, forecasting and neutralization of the internal and external danger and threats. These activities can be executed by the separate elements of the governmental authorities and local authorities without the direct interference into the economic, organizational and individual functioning of the public safety objects or such interference has mediated (tangent) character. In case of danger or risk such interfere can take place, then such type of interference has the direct (immediate) character.

According to the specified peculiarities of interference into the activity of the public security

objects we offer to separate two elements of the content of the public security: the first is the general provision of security of the aviation transport; the second is the direct provision of security during the use of the aviation transport.

The general provision of security is executed by all subjects of the public security. The general provision of security is constant in time and space.

The direct provision of security is executed by the executive authorities and local government authorities empowered to issue the legal instruments and to execute legal actions to promote public security connected with the interference into the economic, organizational and individual operating of the object for the public security. Such action can change the procedure and relations in the object of interference to provide security of all objects of the aviation transport (passengers and property) in case of the risk and danger of any origin or prevention of such situations.

The specific activity related to the provision of security on the aviation transport involves the actions of those executive authorities and local authorities empowered to directly provide security on the aviation transport. The necessity for this is that such provision is regulated by the standards of the administrative legislation and directly applicable norms.

Thus, we can say that the activity of the executive authorities and local authorities regulated by the standards of the administrative law related to the provision of security on the aviation transport by directly interfering in the economic, organizational and individual operation of the objects of the provision of security which do not subordinate to them, is the administrative provision of public security on the aviation transport.

At the same time it is necessary to specify the marginal aspects for the provision of security connected with the norms of the civil, criminal, economic, financial and other branches of law.

Scientifically the specification of the provision of security under the forms of the activity connected with the aviation security can be executed in the following format: forms of the administrative and public provision of aviation security are considered to be the direct acts of the law enforcement authorities and other subjects for the security provision in order to prevent the

dangerous situations for the use of the aviation transport, terminals and airports [4].

During the provision of public security on the aviation transport these forms obtain the special features: motivation, aim and task of such activity.

Therefore, the content of the security provision on the aviation transport in the administrative law of Ukraine is the administrative provision of the aviation social security. Herewith, we consider it necessary to point the following features of the administrative support of the public security:

1. Administrative support of social security on the aviation transport is the administrative and legal form of the exercise of powers of the executive authorities related to the provision of social security. The administrative support obtains the administrative and legal form of the managing activity of the executive authorities and local authorities which help to implement the effective provision of social security in Ukraine.

2. The Administrative support of the social security on the aviation transport is the responsibility of the executive authorities which guarantees the execution of the general obligatory requirements and safety regulations specified by the state for the corresponding statutory acts of the different levels. Actually such activity has the administrative and public character being evident in the execution of the obligatory regulations (as the conditions, limitations, restraints and permissions) of the subjects and objects of public security specified by the current statutory documents (laws, decrees, orders, decisions) in order to prevent dangers and risks of the different origin in favor of the specific citizens, society and other objects of public security.

3. Administrative support of the public security on the aviation transport is the specific activity of the executive authorities and local government authorities. The object of this activity is public relations between the individuals, legal bodies and executive authorities and local governmental authorities related to the execution of the adopted principles of aviation security. Herewith, there is no administrative subordination between the participants of these relations but there are adopted administrative regulations and obligations related to the public security.

4. Administrative support of public security on the aviation transport means the activity of the executive authorities and local governmental authorities and their official empowered and competent to provide public security in the subordinate spheres of the state administration.

5. Administrative support of public security on the aviation transport is executed by the executive authorities and local governmental authorities using both the general and the special methods of the administrative law. The use of the specific method is stipulated by the aims and consequences of the interference into the activity of the specific individuals and legal bodies.

6. Administrative support of public security on the aviation transport as the activity of the governmental authorities and local authorities is represented in the specific administrative forms used according to suitability and rationality of the specific interference and circumstances of danger both current and expectable.

The specified elements of the content of the administrative provision of security on the aviation transport reflect in detail the operating peculiarities of the executive authorities and local governmental authorities and their officials related to the public security being the integral part of the administrative law.

The one of the key directions in the formation of the theory of the administrative mechanism of the provision of the aviation security is the classification of the interests of the specific individuals and legal bodies regarding to the use of the aviation transport. Such categories are: a) vital interest; b) economic interest; c) political interests; d) national (state) interests; e) international interests (geopolitical interests).

Using the synthesis method, the integral approach we can specify five aspects for the building of the administrative mechanism for the provision of the aviation security: 1) specification of the right for security as the main priority for the individuals; 2) provision of the aviation security is the category for the synthesis (consolidation of efforts to achieve the safe use of the aviation transport); 3) coordination – principle of the information interchange of all law enforcement authorities, formation of new institutes of the aviation transport protection; 4) provision of

security must reflect the interests of the society and the state regarding the defense of the individual during the use of the aviation transport; Safety providing has to reflect the interests of the society and state 5) to achieve the safety of the aviation it is necessary to use means specified by the national and international legislation.

Conclusions. The administrative system for the provision of aviation security is the complex of the administrative means directed on effective use of the management and coordination mechanism for the provision of security of all who use the aviation means against the outside interference in order to inflict harm.

The content of the administrative provision of public security on the aviation transport give the possibility to specify the very pinch of this category and to detect its main aim and task in the administrative law of Ukraine. The very pinch of the category of the provision of public security is the complex of the aim and the operational principles of the authorized subjects of public security in Ukraine. The aim of the provision of public security on the aviation transport is to remove all threats and danger of any origin using the administrative legal standards.

Thus we can conclude that the administrative system of the provision of the aviation security is the part of the general aviation security.

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