

**O. Husar,**  
Candidate of Juridical Sciences, Associate Professor

**O. Myronets,**  
Senior Lecturer

## **ADMINISTRATIVE SERVICES IN A FIELD OF CIVIL AVIATION: TYPES AND PROCEDURES**

National Aviation University  
Kosmonavta Komarova Avenue, 1, 03680, Kyiv, Ukraine  
E-mails: gusar\_oa@ukr.net, o.m.myronets@ukr.net

### **Abstract.**

**Purpose:** types of administrative services provided in the field of civil aviation, their characteristics and the procedure to provide them are the relevant theme for scientific research according to the new legislation of Ukraine. The State Aviation Administration provides administrative services, such as: cancellation of a license for a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air on an application; issuance of a license for a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air; reduction of the conduct of economic activity types for the carriage of passengers, dangerous goods and hazardous waste by air; extension of economic activity types for the carriage of passengers, dangerous goods and hazardous waste by air. **Methods:** general scientific, philosophical and specially-legal methods of scientific research have been used. Theoretical and legal framework of an institute of administrative services in a field of civil aviation, a procedure for their provision in accordance with the new Licensing conditions for conducting an economic activity for the transportation of passengers, dangerous goods and hazardous waste by air, and changes in a list of administrative services on an example of certification have been researched investigated with the help of general scientific and philosophical methods. A system analysis method has been used for the analysis of modern administrative legislation, scientific works to determine the concepts of «an administrative service» and «administrative service in the field of civil aviation». **Results:** it is shown that the legislation about administrative services in a field of civil aviation is in the forming stage. It was stressed on conditions to get a license for a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air according to new Licensing conditions. It was concluded changes in the legislation of Ukraine removed a certification procedure of administrative services that are provided by the State Aviation Service. **Discussion:** a procedure of administrative services in a field of civil aviation, conditions to get a license a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air according to the new legislation of Ukraine have been investigated. The development of a concept of «administrative services in a field of civil aviation» and its implementation is an important topic for the future research.

**Keywords:** an administrative service, administrative services in a field of civil aviation, a procedure of administrative services, a license, a license for a right to carry out business activities for the carriage by air, a certification procedure.

**Introduction.** The current stage of development of Ukraine as a legal and a social state requires the provision of high-quality administrative services. Ukraine is at the stage to form a new format of rela-

tions between our state and citizens. At this stage, there is a search for ways to improve a system of administrative services in various fields of their provision, including a field of civil aviation.

Civil aviation involves the carriage of passengers, luggage, cargo and mail; performing aviation works in various sectors of the economy (agriculture, construction, forest protection, expedition services, etc.); providing medical care to the population and carrying out sanitary measures; experimental and research works; educational, cultural and sport events, as well as search-rescue, emergency-rescue and assistance in case of natural disasters, etc.

The International Civil Aviation Organization (ICAO) estimates that the number of air passengers will more than double in two decades, from 3.0 billion in 2012 to 6.4 billion in 2030 [1]. In the period from 2012 to 2023, the global demand for air transportation in the world will grow by an average of 4-5% annually. Airlines in the world have increased passenger traffic by 2014 (5.9%, multiplied by their range), according to the information from the International Air Transport Association (IATA). This exceeds the average growth rate of the indicator over the last decade, which is 5.6%. On the contrary, in Ukraine, nowadays, negative trends prevail. On the background of a difficult political and economic situation, there is a steady decline in demand for air transportation. According to the National Bank of Ukraine, there is a fall in GDP, a depreciation of the national currency; therefore, the purchasing power of the population is deteriorating accordingly.

This situation also affects air carriers that in accordance with the Law “On Licensing of Economic Activity Types”, must obtain a permit or rather a license for a right to carry out their business activity for the carriage of passengers, dangerous goods and hazardous waste by air, and must fulfill all the necessary conditions to get such a document. Therefore, it is necessary to improve a level of administrative services in the field of civil aviation and establish a transparent, efficient system of their provision.

Analysis of the research and publications. A lot of works are devoted to investigate the administrative services in the Ukrainian administrative-legal science, but the research of administrative services in the field of civil aviation is only indirectly found in works of V. Averyanov, K. Afanasyeva, V. Kolpakov, O. Husar, V. Tymoshchuk and others.

V. Tymoshchuk published a textbook devoted to the issues related to the organization improvement to provide administrative services. V. Averyanov, K. Afanasyeva, V. Kolpakov in their works reveal a concept of “administrative services,” a legal mechanism of their regulation, and the relation of this concept to administrative law with other concepts such as “public services,” “municipal services,” “non-administrative services.”

I. Koliushko covers issues related to centers’ of providing administrative services creation and organization as the best organizational form of their provision to all categories of individuals.

At the same time, the issues of the administrative services quality in the field of civil aviation and increase of their effectiveness have not yet found their proper scientific investigation.

**Research tasks.** The purpose of the article is to study the types of administrative services provided in the field of civil aviation, their characteristics and the procedure to provide them.

**Research results.** The basis of an administrative services doctrine is the concept of service of a state (a power) to a person (a society). According to this notion, the concept of an administrative service can be considered in two aspects: firstly, as a public authority activity of an administrative body, aimed at providing (legal registration) conditions for the implementation of rights of a natural person or a legal entity, carried out on an application of those persons; secondly, as a result of a public authority activity of an administrative body aimed at providing (legal registration) conditions for the implementation of subjective rights of a natural person or a legal entity that have been carried out on an application of those persons.

The Law of Ukraine “On Administrative Services” provides an actual definition of this concept. According to this, an administrative service is the result of exercising power by a subject of administrative services provision on an application of a natural person or a legal entity, aimed at acquiring, changing or terminating rights and/or duties of those persons in accordance with the law [2].

The State Aviation Service is a central executive body which activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Infrastructure, which implements state

policy in the field of civil aviation and use of airspace of Ukraine and is the authorized body on civil aviation matters. It is a body of executive power that ensures the formation of state policy in the field of transport, defines priority directions and takes measures to formulate state policy in the field of air transport and use of airspace of Ukraine and provides the legal regulation.

It is the State Aviation Service that is the subject of administrative services provision in the field of civil aviation.

There is no clear list of administrative services types in the Law "On Administrative Services," therefore, having analyzed the scientific literature, the legal framework and the Unified State Administration of Administrative Services portal, we have come to the conclusion that in the field of civil aviation the main type of administrative services is licensing, which involves obtaining a permit on implementation of the certain economic activity.

Licensing is the publication, reissue and cancellation of licenses, the issuance of a duplicate of licenses, conducting of licensing cases and licensing registries, control over compliance with licensing conditions by licensees, issuance of instructions to exclude violations of licensing conditions, as well as instructions to exclude violations of the legislation in the field of licensing.

The purpose of licensing is to ensure a unified state policy in this area, as well as to protect the main economic and social interests of citizens. The main task of licensing is to protect the main interests of the state, citizens by establishing from the side of the state certain conditions and rules to implement in certain types of economic activity.

The licensing is a well-known procedure to regulate aviation activity all over the world. For example, in the Sultanate of Oman carriage of passengers, cargo and mail or aerial work for hire and reward to, from or within Oman by an Omani-registered operator may only be undertaken following the issue of an Economic Operating Licence, or in the case of a foreign-registered operator, a Foreign Carrier Permit, or other permission issued by the Authority in accordance with this regulation [3].

Article 7 of the Law "On Licensing of Economic Activities Types" provides a list of economic activities types that are subjects of licensing, which

include the carriage of passengers, dangerous goods and hazardous waste by river, sea, road, rail and air transport, international transportation of passengers and goods by road [4].

On March 3, 2017, the Resolution of the Cabinet of Ministers of Ukraine No. 134 dated on March 10, 2017, which approved the new Licensing Conditions for conducting business activities for the carriage of passengers, dangerous goods and hazardous waste by air, came into force [5].

Licensing conditions are aimed at the liberalization of the Ukrainian aviation transport market, their effect extends to all legal entities, regardless of their organizational and legal form, and individuals-entrepreneurs who carry out economic activities for the carriage of passengers, dangerous goods and hazardous waste by air. In connection with the introduction of the new site of the State Aviation Service, the information on the old one has not been updated, which causes inconvenience to potential users of public services of the State Aviation Service.

When a license has been got, an air carrier must ensure that his business with Air Traffic complies with the regulatory requirements according to the Licensing conditions. An exhaustive list of such requirements is provided in the item 9 of the Licensing conditions and includes the following:

- 1) an air carrier must have a valid operator's certificate and have at least one aircraft on a right of ownership or leasing (except for leasing with the crew);
- 2) the main activity of the air carrier has to be the carriage of air transportation separately or in combination with any other commercial operation of the aircraft and maintenance of the aircraft;
- 3) types of flights, an activity place, air carrier's material-technical base, specified in the operating specifications of the air carrier, must correspond to the declared type of economic activity in the field of air transportation;
- 4) more than 50 percents of the authorized capital (shares) of the air carrier shall be owned by Ukraine and/or residents of Ukraine, unless otherwise is provided by international treaties of Ukraine;

5) an aircraft personnel of the air carrier must meet the qualification requirements and have duly completed certificates; and

6) labor relations with employees of the air carrier must be executed in accordance with the Labor Code of Ukraine.

Licensing conditions also pay attention to the special duties of operating air carriers during the conduct of their economic activities in the field of air transportation.

Among such duties, for example, there are: the need to ensure head's of an air carrier presence, his or her deputy or other authorized person during the licensing authority to verify compliance with the License conditions, and the need to notify the licensing authority of all changes in the data that were specified in the documents of the air carrier attached to the application, not later than within one month from the date of such changes.

The State Aviation Administration in accordance with the Unified State Administration Services Portal [6] is provided with administrative services such as:

- cancellation of a license for a right to conduct economic activities for the carriage of passengers, dangerous goods and hazardous waste by air on an application;

- issuance of a license for a right to conduct economic activities for the carriage of passengers, dangerous goods and hazardous waste by air;

- narrowing of an economic activity type for the carriage of passengers, dangerous goods and hazardous waste by air;

- expansion of the conduct of economic activity type for the carriage of passengers, dangerous goods and hazardous waste by air.

Article 8 of the Law "On Administrative Services" determines that a subject of administrative services for each administrative service that he or she provides approves information and technology cards [2].

An information card for an administrative service is provided by a territorial body of a central executive authority or another state body, their officials authorized to provide the administrative service in accordance with the law, must be approved on the basis of a standard information card ap-

proved by a relevant central executive authority or other public authority.

If an administrative procedure is complicated, that is, there are several successive stages in which several executive bodies take part, for such a procedure only one information card is made.

For example, in order to obtain a license and a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air, it is necessary to submit the following documents, the list of which is contained in the information card of the given service:

- 1) an application for obtaining a license for a right to carry out economic activities for the carriage of passengers, dangerous goods and hazardous waste by air;
- 2) an information signed by a licensee (his manager or a head of his executive body) on the number and date of issuance of a valid operator's certificate;
- 3) documents confirming that more than 50 percents of the authorized capital (shares) of the licensee are owned by Ukraine, legal entities of Ukraine and/or individuals-residents of Ukraine, unless otherwise is provided by international treaties of Ukraine;
- 4) an information signed by the licensee (his head or a head of his executive body) about the absence of control (in the sense specified in the article 1 of the Law of Ukraine "On Protection of Economic Competition") for activities of an applicant for a license of persons who reside in the countries of the armed aggression Ukraine (in the sense given in the article 1 of the Law of Ukraine "On the Defense of Ukraine") and/or actions of which create conditions for the emergence of a military conflict and the use of military force against Ukraine;
- 5) description of documents attached to the application for obtaining a license, in duplicate of the established form (an application and a description template are available on the website of the Uniform State Administration of Administrative Services).

Many different circumstances arise that causes an agency to deny a license, revoke an existing license or discipline a current licensee [7].

As it is possible to see, the list of administrative services has been changed significantly since 2013. In the Register of State and Administrative Services that lost its legal force 81 types of paid services (from 09.12.2010), which were provided by the

State Aviation Administration, have been determined. This situation can be analyzed by examining the certification that was previously in the list of administrative services of the State Aviation Service. The Law of Ukraine “On Administrative Services” determines that an administrative service is the result of exercising power by a subject of administrative services provision on an application of a natural person or a legal entity, aimed at acquiring, changing or terminating rights and/or duties of those persons in accordance with the law.

In accordance with the article 13 of the Air Code of Ukraine, the State Aviation Service conducts certification of activities in the field of civil aviation for compliance with its requirements of the aviation rules of Ukraine. In this case, a certificate is given after the certification procedure during which the long-term ability of a subject or an object of aviation activity to the safe conduct of an authorized type of activity or functions in the field of civil aviation is checked [8].

An order and procedures for certification are established by the Regulation on certification of entities providing agency services for the sale of air transport on the territory of Ukraine, approved by the State Aviation Service on December 30, 2004, No. 255, registered by the Ministry of Justice of Ukraine on January 12, 2005, No. 27/10307 [9].

A document issued by the State Aviation Service, as confirmation of the requirements of the aviation rules of Ukraine, does not give, change or terminate rights and/or duties of individuals or legal entities as defined by the Law of Ukraine “On Administrative Services.” Therefore, for actions carried out by the State Aviation Service, in accordance with the article 12 of the Air Code of Ukraine, state fees are paid, the rates of which are determined by the resolution of the Cabinet of Ministers of Ukraine. That is why the certification is not a type of administrative services that are provided by the State Aviation Service [10].

So, after clarifying a concept of “administrative services” the list of the services has been changed, because of this some categories by their nature and procedure did not fit into the definition of administrative services, therefore their list was significantly reduced.

**Conclusion.** The article examines the procedure for providing administrative services in the field of civil aviation and their essence. In accordance with the Resolution of the Cabinet of Ministers of Ukraine No. 134 dated on March 10, 2017, which approved the new Licensing Conditions for conducting of economic activities for the transportation of passengers, dangerous goods and hazardous waste by air, the list of administrative services has been changed. The types of administrative services provided by the State Aviation Service of Ukraine have been determined. The State Aviation Administration in accordance with the Unified State Administration of Administrative Services portal provides administrative services, such as: cancellation of a license for a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air on an application; issuance of a license for a right to carry out business activities for the carriage of passengers, dangerous goods and hazardous waste by air; reduction of the conduct of economic activity types for the carriage of passengers, dangerous goods and hazardous waste by air; extension of economic activity types for the carriage of passengers, dangerous goods and hazardous waste by air. Also, changes have been made to the list of necessary conditions for obtaining a license.

### References

1. ICAO 2013 Global Air Transport Outlook to 2030 and trends to 2040 (International Civil Aviation Organization) [Electronic resource]. – Mode of access: <http://store1.icao.int/index.php/global-air-transport-outlook-to-2030-and-trends-to-2040-cir-333-english-printed.html>
2. *On administrative services*: Law of Ukraine on September 6, 2012 No. 5203-VI // Official bulletin of Ukraine. – 2013. – No. 76. – P. 44-53.
3. *Economic regulation of licensing and consumer protection in Civil Aviation of the Sultanate of Oman*. – Public Authority for Civil Aviation. – December 2015 [Electronic resource]. – Mode of access: <http://www.paca.gov.om/util-files/Economic-regulation-of-licensing-and-consumer-protection-in-Civil-Aviation.pdf>
4. *On Licensing of Economic Activity Types*: Law of Ukraine on March 2, 2015, No. 222-VIII

[Electronic resource]. – Mode of access: <http://zakon3.rada.gov.ua/laws/show/222-19>. On the approval of requirements for the preparation of a technological card of an administrative service: Regulation of the Cabinet of Ministers of Ukraine dated January 30, 2013, No. 44 // Official bulletin of Ukraine. – 2013. – No. 9. – Art. 333.

5. Husar O. A. Administrative Services in the Field of Civil Aviation / O.A. Husar // Problems of legal regulation of BIA in the field of providing administrative services: the materials of the round table devoted to the Day of Science on May 16, 2013: thesis. – Kyiv, 2013. – P. 34-36.

6. Official site of the State Aviation Service of Ukraine [Electronic resource]. – K.: State Aviation Service of Ukraine, 2017. – Mode of access: <http://www.avia.gov.ua/uploads/documents/11308.pdf>

7. Administrative Law. Handbook. Office of the Attorney General. – 2014 [Electronic resource]. – Mode of access: <https://www.texasattorneygeneral.gov/files/og/adminlawhb.pdf>

8. The Air Code of Ukraine on 19.05.2011 No. 3393-VI [Electronic resource]. – Mode of access: <http://zakon2.rada.gov.ua/laws/show/>.

9. The strategic plan for air transport development for the period up to 2020: Order of the Ministry of Infrastructure of Ukraine on December 21, 2015, No. 566 [Electronic resource]. – Mode of access: <http://mtu.gov.ua/files20546.pdf>

10. Tymoshchuk V. Administrative services: manual [Text] / V. Tymoshchuk; Swiss-Ukrainian project “Support for Decentralization in Ukraine – DESPRO.” – K.: LLC “Sofia-A”. – 2012. – 104 p.

О. А. Гусар, О. М. Миронець

### АДМІНІСТРАТИВНІ ПОСЛУГИ В СФЕРІ ЦИВІЛЬНОЇ АВІАЦІЇ: ВИДИ ТА ПОРЯДОК НАДАННЯ

Національний авіаційний університет  
проспект Космонавта Комарова, 1, 03680, Київ, Україна  
E-mails: gusar\_oa@ukr.net, o.m.myronets@ukr.net

**Мета:** види адміністративних послуг, що надаються в галузі цивільної авіації, їх характеристика та порядок надання відповідно до нового законодавства України є актуальною темою для наукових досліджень. Державна авіаційна служба надає адміністративні послуги, такі як: анулювання ліцензії на право здійснення господарської діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітрям за заявкою; видача ліцензії на право здійснення господарської діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітряним шляхом; скорочення видів господарської діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітрям; розширення типів господарської діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітрям. **Методи:** використані загальнонаукові, філософські та спеціально-правові методи наукового дослідження. Теоретико-правова база інституту адміністративних послуг у галузі цивільної авіації, порядок їх надання відповідно до нових Ліцензійних умов проведення господарської діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітрям та зміни в переліку адміністративних послуг на прикладі сертифікації були досліджені за допомогою загальнонаукових та філософських методів. Метод системного аналізу був використаний для аналізу сучасного адміністративного законодавства, наукових робіт з визначення поняття «адміністративна послуга» та «адміністративна послуга в галузі цивільної авіації». **Результати:** показано, що законодавство про адміністративні послуги в галузі цивільної авіації знаходиться на етапі формування. Було підкреслено умови отримання ліцензії на право здійснення господарської діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітрям відповідно до нових умов ліцензування. Зроблено висновок, що зміни в законодавстві України виключили процедуру сертифікації з переліку адміністративних послуг, що надаються Державною авіаційною службою. **Обговорення:** досліджено процедуру адміністративних послуг у сфері цивільної авіації, умови отримання ліцензії на право

здійснення підприємницької діяльності для перевезення пасажирів, небезпечних вантажів та небезпечних відходів повітрям відповідно до нового законодавства України. Розробка концепції «адміністративних послуг в галузі цивільної авіації» та її впровадження є важливою темою для майбутніх досліджень.

**Ключові слова:** адміністративна послуга, адміністративні послуги в галузі цивільної авіації, порядок надання адміністративних послуг, ліцензія, ліцензія на право ведення господарської діяльності для перевезення повітряним транспортом, процедура сертифікації.

О. А. Гусар, О. Н. Миронець

## АДМИНИСТРАТИВНЫЕ УСЛУГИ В СФЕРЕ ГРАЖДАНСКОЙ АВИАЦИИ: ВИДЫ И ПОРЯДОК ПРЕДОСТАВЛЕНИЯ

Национальный авиационный университет  
проспект Космонавта Комарова, 1, 03680, Киев, Украина  
E-mails: gusar\_oa@ukr.net, o.m.myronets@ukr.net

**Цель:** типы административных услуг, предоставляемых в области гражданской авиации, их характеристика и порядок предоставления в соответствии с новым законодательством Украины являются актуальной темой научных исследований. Государственная авиационная служба предоставляет административные услуги, такие как: аннулирование лицензии на право осуществления предпринимательской деятельности для перевозки пассажиров, опасных грузов и опасных отходов по воздуху по заявке; выдача лицензии на право осуществления предпринимательской деятельности по перевозке пассажиров, опасных грузов и опасных отходов воздушным транспортом; сокращение видов хозяйственной деятельности для перевозки пассажиров, опасных грузов и опасных отходов воздушным транспортом; расширение видов экономической деятельности для перевозки пассажиров, опасных грузов и опасных отходов воздушным транспортом. **Методы:** использованы общие научные, философские и специально-правовые методы научных исследований. Теоретические и правовые рамки института административных услуг в области гражданской авиации, порядок их предоставления в соответствии с новыми Лицензионными условиями для ведения хозяйственной деятельности по перевозке пассажиров, опасных грузов и опасных отходов по воздуху, а также изменения в списке административных услуг на примере сертификации были исследованы с помощью общих научных и философских методов. Для анализа современного административного законодательства, научных работ для определения концепций «административная услуга» и «административные услуги в области гражданской авиации» был использован метод системного анализа. **Результаты:** показано, что законодательство об административных услугах в области гражданской авиации находится на стадии формирования. Были подчеркнуты условия получения лицензии на право осуществления предпринимательской деятельности по перевозке пассажиров, опасных грузов и опасных отходов воздушным транспортом в соответствии с новыми условиями лицензирования. Сделано вывод, что изменения в законодательстве Украины исключили процедуру сертификации из перечня административных услуг, предоставляемых Государственной авиационной службой. **Обсуждение:** исследована процедура административных услуг в области гражданской авиации, условия получения лицензии на осуществление предпринимательской деятельности для перевозки пассажиров, опасных грузов и опасных отходов по воздуху в соответствии с новым законодательством Украины. Разработка концепции «административных услуг в области гражданской авиации» и ее реализация являются важной темой для будущих исследований.

**Ключевые слова:** административная услуга, административные услуги в области гражданской авиации, порядок предоставления административных услуг, лицензия, лицензия на право осуществления предпринимательской деятельности на воздушную перевозку, процедура сертификации.