



ICAO

Background:

The *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Montréal Protocol 2014 or MP 14) was adopted with the objective of strengthening the capacity of States to curb an escalation in the severity and frequency of incidents of unruly and disruptive behaviour occurring on board aircraft. 4 April 2024 marks 10 years since the adoption of MP 14. Since that time, the treaty, which entered into force on 1 January 2020, has been ratified by 47 States from all regions of the world. States that have not already done so are urged to ratify the treaty and use the suite of tools developed by ICAO and industry to address this issue and thereby ensure a safe and comfortable flight experience for passengers, a conducive work environment for flight crews, and avoidance of costly flight diversions.

Does ICAO have any role in addressing or responding to unruly and disruptive passenger incidents on international flights?

ICAO sets standards for aviation safety and security which States are required to establish and enforce as national rules. In addition, ICAO facilitates the coming together of States to draft and adopt international treaties on issues of global concern such as dealing with unruly and disruptive conduct on board aircraft. ICAO is not an aviation regulator or international law enforcement authority.

Which international treaties or conventions apply to unruly and disruptive passenger incidents on international flights?

Treaties adopted under the auspices of ICAO which would apply to unruly and disruptive passenger incidents on international flights are primarily the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963) (Tokyo Convention) and the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Montréal, 2014) (Montréal Protocol 2014). To some extent, the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, (Montreal, 1971) and the *Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation* (Beijing, 2010) would apply in cases of acts of violence on board an aircraft. The Organization has also adopted Standards and Recommended Practices with respect to unruly and disruptive behaviour in Annex 17 — *Security — Safeguarding International Civil Aviation Against Acts of Unlawful Interference* and Annex 9 — *Facilitation*.

Is an unruly and disruptive passenger on an international flight normally subject to their own country's laws, the departing country's laws, or the destination country's laws?

An unruly and disruptive passenger may be subject to the laws of one or more of these countries. This is dependent upon the national law implemented therein, if a country is party to the Montréal Protocol 2014, and if it has implemented the appropriate legislation to give legal effect in its jurisdiction. The applicable national law also depends on whether the flight returns to the State of origin, continues to the State of its final destination or whether it is diverted to a different State.

Does international law identify specific offenses and prescribe particular penalties or charges which countries are expected to apply?

It is for each State in its national law to identify specific offenses and prescribe particular penalties or charges for such offenses. Guidance material is provided in the *Manual on the Legal Aspects of Unruly and Disruptive Passengers* (ICAO Doc 10117), which contains a list of offences most likely to be committed on board aircraft by unruly and disruptive passengers, which States may choose to incorporate into their national legislation. Penalties and sanctions are at the discretion of States. Offences and acts may be penalized through a range of options from criminal prosecution to application of civil and administrative sanctions depending on the seriousness of the offence or act as well as whether the matter needs to be dealt with expeditiously. Both airlines and airports may engage with law enforcement and aviation safety authorities to support any administrative or criminal sanctions against a passenger found to have engaged in unruly and disruptive behaviour.

How are these penalties or charges applied once the aircraft lands?

These would be determined in accordance with national law. For example, some States who have administrative sanctions may issue fines expeditiously upon landing. A number of States have developed less onerous or fast track procedures accompanied by lower penalties, to allow speedy resolution of minor incidents. There are States with expedited procedures who offer accused persons the option of accepting to pay a monetary sum in lieu of, or as an alternative to, prosecution (which may involve a higher penalty in the event of being found guilty). In addition, unruly and disruptive passengers may be held accountable for their actions by way of paying costs for diversions and damage to the aircraft and by facing bans on future travel. Unruly and disruptive passengers could also be prosecuted and face imprisonment if found guilty of such acts.

What are the responsibilities of flight crew when unruly and disruptive passenger incidents occur?

Specifics of the responsibilities of flight crew would be in accordance with national regulatory requirements. More generally, the Tokyo Convention and the Montréal Protocol 2014 provide that the aircraft commander may, when there are reasonable grounds to believe that a person has committed, or is about to commit, an offence on board the aircraft, impose reasonable measures including restraint which are necessary to protect the safety of the aircraft, or of persons or property therein, or to maintain good order and discipline on board, or to enable delivery of such person to the competent authorities. The aircraft commander may require or authorize the assistance of other crewmembers in so doing. Instructions from a crew member to a passenger are deemed to be given on behalf of the aircraft commander.

What are ICAO's initiatives to help regulators respond to this phenomenon?

The Montréal Protocol 2014 was adopted under the auspices of ICAO with the objective to curb an escalation in the frequency and severity of unruly and disruptive passenger incidents on international flights. The main changes introduced in the Montréal Protocol 2014 related to improving significantly the ability of States to expand jurisdiction over relevant offences and acts to include not only the State of registration, but also the State of landing and the State of the operator.

In 2019, ICAO published the *Manual on the Legal Aspects of Unruly and Disruptive Passengers* (ICAO Doc 10117), which was developed by a Task Force comprised of experts from States and international organizations. The Manual takes into account the changes to the Tokyo Convention brought about by the Montréal Protocol 2014. Moreover, the Manual provides guidance on possible measures that may be taken by States to prevent, deter and address the occurrence of unruly and disruptive passenger incidents under their national legislation, consistent with international obligations. The Manual further features model

legislation for offences committed on board aircraft and guidance for the implementation of an administrative sanctions regime, such that it may help States develop their national legislation. The model legislation has been endorsed by the ICAO Assembly for use by States.

The Organization has established Standards on measures to deal with unruly and disruptive passengers which are in Annex 17 — *Security — Safeguarding International Civil Aviation Against Acts of Unlawful Interference* and Annex 9 — *Facilitation*, and developed related guidance material in other ICAO publications such as the *Aviation Security Manual* (Doc 8973 — Restricted), the *Manual on the Implementation of the Security Provisions of Annex 6* (Doc 9811 — Restricted), *The Facilitation Manual* (Doc 9957), the *Cabin Crew Safety Training Manual* (Doc 10002), the *Manual on the Investigation of Cabin Safety Aspects in Accidents and Incidents* (Doc 10062) and the *Manual on Information and Instructions for Passenger Safety* (Doc 10086).

In light of reports and concerns with regard to the implementation and enforcement of public health measures on board aircraft in the wake of the COVID-19 pandemic, ICAO's Council Aviation Recovery Task Force (CART) issued guidance which highlighted actions that could be taken by States to manage unruly and disruptive behaviour, including training, public awareness and the review of their national legislation to ensure that unruly and disruptive behaviour relative to COVID-19 measures was properly covered. This guidance remains relevant with respect to implementation and enforcement of current public health measures.

ICAO conducts or participates in seminars and workshops aimed at encouraging States to ratify the Montréal Protocol 2014. The Organization also has an administrative package aimed at assisting States with ratification. By Resolution A41-4, Appendix C, the ICAO Assembly urges all States that have not done so to ratify the Montréal Protocol 2014. As of 1 April 2024, there are 187 States Parties to the Tokyo Convention and 47 States Parties to the Montréal Protocol 2014. The lists of States Parties to these and other air law treaties are available on the ICAO Treaty Collection website (www.icao.int/partiestotreaties).

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