



INTERNATIONAL CONFERENCE ON AIR LAW

(Montréal, 26 March to 4 April 2014)

JURISDICTION WORKING GROUP: DRAFTING PROPOSALS

(Presented by the Chairman of the Group)

Underline represents amendments in the draft Protocol (A38-WP/49).

Underline represents additional text inserted by the Jurisdiction Working Group.

~~Strikethrough~~ represents text deleted by the Jurisdiction Working Group.

Amended Article 2 of the Convention

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires, no provision of this Convention shall be interpreted as authorising or requiring any action in respect of offences against penal laws of a political nature or those based on **~~racial or religious~~ discrimination on any ground such as race, religion, nationality, ethnic origin, political opinion or gender, or other status.**

Amended Article 3.2 bis

Each Contracting State shall also take such measures as may be necessary to establish its jurisdiction over offences [and acts] committed on board aircraft in the following cases:

- a) as the State of landing, when:
 - i. the aircraft on board which the offence [or act] is committed **has its next scheduled destination or last place of departure in its territory, if the aircraft next lands in its territory with the alleged offender on board;**
 - ii. **the offence [or act] jeopardises the safety of the aircraft or of persons or property therein or jeopardises good order and discipline on board; and**
 - iii. **the aircraft commander has delivered the alleged offender in accordance with Article 9(1) of the Convention.**
- b) as the State of the Operator, when the offence [or act] is committed on board an aircraft leased without crew to a lessee whose principle place of business or, if the lessee has no such place of business, whose permanent residence is in that State.

Amended Article 3 bis

If a contracting State, exercising its jurisdiction under Article 3, had been notified or has otherwise learned that one or more other Contracting states are conducting an investigation, prosecution or judicial proceeding in respect of the same offences or acts, that Contracting State ~~may~~ / ~~shall~~ shall, as appropriate, consult those other Contracting States with a view to coordinating their actions. The obligations in this paragraph are without prejudice to the obligations of a contracting State under Article 13.

New Article 15.3 bis

In exercising its jurisdiction as State of landing, a State shall consider whether the offence or act in question is generally an offence in other States [and the severity of the penalties that generally apply].

New Article 15.4 bis

Each contracting State, when fulfilling its obligations, or exercising a permitted discretion, under this Convention, shall act in accordance with the obligations and responsibilities of States under international law. In this respect, each contracting State shall have special regard for the principles of due process and fair treatment.

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