



**DRAFT CONSOLIDATED TEXT OF THE HAGUE CONVENTION OF 1970  
WITH AMENDMENTS PROPOSED BY THE LEGAL COMMITTEE**

**PREAMBLE**

THE STATES PARTIES TO THIS CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in ~~service flight~~ jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

**Article 1**

~~Any person who on board an aircraft in flight:~~

~~(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of, that aircraft, or attempts to perform any such act, or~~

~~(b) is an accomplice of a person who performs or attempts to perform any such act~~

~~commits an offence (hereinafter referred to as "the offence").~~

1. Any person commits an offence if that person unlawfully and intentionally seizes or exercises control of an aircraft in service by force or threat thereof, or by coercion, or by any other form of intimidation, or by any technological means.

2. Any person also commits an offence if that person makes a credible threat or unlawfully and intentionally causes any person to receive a credible threat to commit an offence in paragraph 1.

3. Any person also commits an offence if that person:

- (a) attempts to commit an offence set forth in paragraph 1 of this Article; or
- (b) organizes or directs others to commit an offence set forth in paragraphs 1, 2, or 3(a) of this Article; or
- (c) participates as an accomplice in an offence set forth in paragraphs 1, 2 or 3(a) of this Article; or
- (d) knowing that a person has committed an act that constitutes an offence set forth in paragraphs 1, 2 or 3(a) of this Article, or that a person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence, assists that person to evade investigation, prosecution or punishment.

4. Each State Party shall also establish as offences, whether or not any of the offences set forth in paragraphs 1, 2 or 3(a) of this Article is actually committed or attempted, either or both of the following:

- (a) agreement with one or more other persons to commit an offence set forth in paragraphs 1, 2 or 3(a) of this Article and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement; or
- (b) contribution in any other way to the commission of one or more offences set forth in paragraphs 1, 2 or 3(a) of this Article by a group of persons acting with a common purpose, intentionally and either:
  - (i) with the aim of furthering the general criminal activity or purpose of the group, where such activity or purpose involves the commission of an offence set forth in paragraphs 1, 2 or 3(a) of this Article; or
  - (ii) in the knowledge of the intention of the group to commit an offence set forth in paragraphs 1, 2 or 3(a) of this Article.

## Article 2

Each Contracting State Party undertakes to make the offences set forth in Article 1 punishable by severe penalties.

## Article 3

1. For the purposes of this Convention,

~~[(a) an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.];]~~

~~[(b)]~~

an aircraft is considered to be in service from the beginning of the pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours

after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in sub-paragraph (a) of this Article. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.
3. This Convention shall apply only if the place of take-off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.
4. In the cases set forth mentioned in Article 5, this Convention shall not apply if the place of take-off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.
5. Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8, and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

#### **Article 3 bis**

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, the Convention on International Civil Aviation and international humanitarian law.
2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law are not governed by this Convention, and the activities undertaken by military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.
3. The provisions of paragraph 2 of the present Article shall not be interpreted as condoning or making lawful otherwise unlawful acts, or precluding prosecution under other laws.

#### **Article 4**

1. Each Contracting State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 and any other act of violence against passengers or crew committed by the alleged offender in connection with the offences, in the following cases:
  - (a) when the offence is committed in the territory of that State;
  - (a)(b) when the offence is committed against or on board an aircraft registered in that State;
  - (b)(c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;

~~(e)~~(d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his or her principal place of business or, if the lessee has no such place of business, his or her permanent residence, in that State;

(e) when the offence is committed by a national of that State.

2. A State Party may also establish its jurisdiction over any such offence in the following cases:

(a) when the offence is committed against a national of that State;

(b) when the offence is committed by a stateless person who has his or her habitual residence in the territory of that State.

3. Upon ratifying, accepting, approving or acceding to this Protocol, each State Party shall notify the Depositary of the jurisdiction it has established under its national law in accordance with paragraph 2 of this Article. Should any change take place, the State Party concerned shall immediately notify the Depositary.

~~2-4.~~ Each Contracting State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 1 ~~in the case~~ in the case where the alleged offender is present in its territory and it does not extradite that person ~~him~~ pursuant to Article 8 to any of the States Parties that have established their jurisdiction in accordance with ~~set forth mentioned in~~ paragraphs 1 or 2 of this Article.

~~3-5.~~ This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

## Article 5

The Contracting States Parties which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

## Article 6

1. Upon being satisfied that the circumstances so warrant, any Contracting State Party in the territory of which the offender or the alleged offender is present, shall take him or her into custody or take other measures to ensure his or her presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he or she is a national.

4. When a State Party, pursuant to this Article, has taken a person into custody, it shall immediately notify the States Parties of registration of the aircraft, the State mentioned in which have established jurisdiction under Article 4, paragraphs 1 (e) and 2, and established jurisdiction and notified the Depositary under Article 4, paragraphs 2 and 3 ~~the State of nationality of the detained person~~ and, if it considers it advisable, any other interested States Parties of the fact that such person is in custody and of the circumstances which warrant his that person's detention. The State Party which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States Parties and shall indicate whether it intends to exercise jurisdiction.

### Article 7

The Contracting State Party in the territory of which the alleged offender is found shall, if it does not extradite him or her, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

### Article 7 bis

Any person who is taken into custody, or regarding whom any other measures are taken or proceedings are being carried out pursuant to this Convention, shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law.

### Article 8

1. The offences set forth in Article 1 shall be deemed to be included as an extraditable offences in any extradition treaty existing between Contracting States Parties. Contracting States Parties undertake to include the offences as an extraditable offences in every extradition treaty to be concluded between them.
2. If a Contracting State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences set forth in Article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. Contracting States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in Article 1 as an extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the The offences shall be treated, for the purpose of extradition between Contracting States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with Article 4,

paragraphs 1 (b), (c), (d) and (e) and who have established jurisdiction in accordance with Article 4, paragraph 2.

5. The offences set forth in subparagraphs (a) and (b) of paragraph 4 of Article 1 shall, for the purpose of extradition between States Parties, be treated as equivalent.

#### **Article 8 bis**

None of the offences set forth in Article 1 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

#### **Article 8 ter**

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in Article 1 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, political opinion or gender, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

#### **Article 9**

1. When any of the acts set forth mentioned in paragraph 1 of Article 1 (a) has occurred or is about to occur, Contracting States Parties shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his or her control of the aircraft.

2. In the cases contemplated by the preceding paragraph, any Contracting State Party in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

#### **Article 10**

1. Contracting States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 1 and other acts set forth mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

**Article 10 bis**

Any State Party having reason to believe that an offence set forth in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States Parties which it believes would be the States set forth in Article 4, paragraphs 1 and 2.

**Article 11**

Each Contracting State Party shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning:

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

**Article 12**

1. Any dispute between two or more Contracting States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States Parties shall not be bound by the preceding paragraph with respect to any Contracting State Party having made such a reservation.

3. Any Contracting State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

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