

# NATO Policy for civil/military aircraft operating in support of NATO or NATO-led missions and operations



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# Background



## Issue

- International aviation law excludes 'state aircraft'
- NATO or NATO-led missions and operations, predominantly military 'state' aircraft
- However, employment of civil aircraft for some tasks
- In addition, NATO collective, common assets
- All such aircraft above normally use NATO call signs

## Aim

- Need to consolidate policy guidance with regard to the *status* and the *conduct* of the flights by civil and military aircraft when operating in support of a NATO or NATO-led missions and operations.

# Context



- In setting the context of this Policy, *"flights operating in support of NATO or NATO-led Missions and Operations"* are defined as the operation of those flights by state and civil aircraft used in support of a NATO or NATO-led operation, as agreed by the North Atlantic Council, and bearing a NATO call sign. A NATO designated call sign may be defined through coordination with relevant national, regional and international aviation bodies associated to the theatre of operation, in order to designate participating state and civil aircraft who shall operate in accordance with the legal framework of such an agreement and designation. Nevertheless, such aircraft will retain the Nationality of their state of registration and will display their nationality marks in international navigation.

# Status of Flights

- *"Aircraft used in military, customs and police services shall be deemed to be state aircraft".*
- However, *"...The contracting States undertake, when issuing regulations for their state aircraft, that they will have **due regard** for the safety of navigation of civil aircraft."*
- While Contracting States have committed to principles of the Convention, competency to regulate operations of state aircraft remains at exclusive National level
- Consequently, aircraft reported in the national military registry are, and always will be, state aircraft, independent from the conduct of the flight
- Moreover, a civil aircraft may become state aircraft upon designation by the State of registry

# Conduct of Flights (1)



- Allies, as ICAO Contracting States, have developed a national set of rules and procedures to regulate the operations of their state aircraft within their territory, and in the international airspace, in order to safeguard the safety of civil aviation.
- When operating within the territory of another state, visiting state aircraft will comply with the rules and procedures of that state, as reflected in the special authorisation received (Diplomatic Clearance).
- Therefore, when outside their state of registration, state aircraft operating under a NATO call sign will comply with the rules and procedures of the state sovereignty over the territory where they operate.

## Conduct of Flights (2)



State aircraft operating under NATO call sign within international airspace **should comply with following principles**, as appropriate:

1. Access to high seas airspace cannot be denied. However, conduct of flight will have to conform, to maximum extent practicable, to ICAO SARPs, as indicated in ICAO Circular 330/AN189.
2. Without prejudice to Articles 3a and 3d of the Chicago Convention, there may be exceptional circumstances when only the notification of the flight would be possible. However, in case of imperative operational necessities\* which might preclude this notification, the safety of air navigation shall always be paramount in the conduct of the flight.

\* Operational necessities include but are not limited to: equipment restrictions and tactical procedures.

# Conduct of Flights (3)

3. In case of absence or suspension of the competent ATS Authority, within the area of operation:
  - Be operated within radar surveillance and under positive control of a surface or airborne radar facility, or
  - Be equipped with airborne radar that is sufficient to provide separation between themselves, aircraft they may be controlling and other aircraft, or
  - Be operated in visual meteorological conditions (VMC).

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