International Civil Aviation Organization

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**WORKING PAPER**

# LEGAL COMMITTEE – 40TH SESSION

(Montréal, 26 – 30 October 2026)

**Agenda Item 2: Consideration of the General Work Programme of the Legal Committee**

## PROCESSES AND PROCEDURES FOR STATES TO FULFIL THEIR OBLIGATIONS UNDER ARTICLE 12 OF THE CHICAGO CONVENTION

(Presented by the Latin American Association of Air and Space Law – ALADA)

## 1. INTRODUCTION

1.1 Compliance with the rules relating to the flight and manoeuvre of aircraft constitutes an obligation under Article 12 of the *Convention on International Civil Aviation* (Chicago, 1944 – the "Chicago Convention") and is further developed, in particular, through the Rules of the Air contained in Annex 2 – *Rules of the Air*. Their application acquires an international dimension when an alleged infringement is committed by a foreign aircraft within the territory of a State.

1.2 In such cases, the establishment of an infringement gives rise to the need to communicate the facts to the competent State and to have mechanisms in place to ensure appropriate follow-up. The involvement of different authorities and legal systems may hinder the timely transmission of information and the adoption of the corresponding measures.

1.3 This issue has been considered in previous work and has led to the development of processes and procedures aimed at facilitating compliance with the obligations arising from Article 12 of the Chicago Convention. This Working Paper resumes that analysis from the perspective of communication between States concerning infringements of the Rules of the Air committed by foreign aircraft.

## 2. ANALYSIS

2.1 The application of Article 12 of the Chicago Convention in respect of infringements committed by foreign aircraft has raised difficulties related to communication between the States concerned. The obligation to ensure compliance with the applicable rules requires, in such cases, that information concerning the alleged infringement be transmitted to the competent authority of another State in a manner that enables it to take cognizance of and address the matter.

[1] English, Arabic, Chinese, French, Russian and Spanish versions provided by the Latin American Association of Air and Space Law (ALADA)

2.2 This issue was considered in the work that led to the inclusion in the General Work Programme of the Legal Committee of the study of the processes and procedures necessary to facilitate compliance with the obligations under Article 12 of the Chicago Convention. In particular, A40-WP/101, *Article 12 of the Chicago Convention: Communication Mechanism and Guidelines to Support its Implementation* jointly presented by Brazil and the United States highlighted the need for timely and efficient communication between aeronautical authorities and addressed matters relating to the notification of alleged infringements, investigation, evidence and documentation.

2.3 Against this background, the Article 12 Task Force (A12 TF) has made progress in examining the scope and application of this provision and the mechanisms intended to facilitate the exchange of information between States. Its work has encompassed both the analysis of the legal issues involved and the consideration of tools to make such exchanges more effective.

2.4 The progress achieved provides a relevant basis for improving cooperation between States. Nevertheless, there remains a need for procedures that enable effective communication of alleged infringements committed by foreign aircraft and facilitate their handling by the competent authorities.

## 3. CONCLUSION

3.1 Effective compliance with the obligations under Article 12 of the Chicago Convention requires mechanisms enabling communication between States when an alleged infringement of the Rules of the Air is committed by a foreign aircraft.

3.2 The work carried out in this area has made it possible to advance the processes and procedures intended to facilitate the exchange of information between States.

3.3 Pursuant to Article 12 of the Chicago Convention, States are required to adopt rules enabling sanctions to be imposed for infringements of the Rules of the Air, whose principal objective is to ensure operational safety.

3.4 Considering the growth of air transport and the increasing volume of aircraft operating in the airspace, infringements of the Rules of the Air may be committed by foreign personnel.

3.5 In principle, the State in which the violation of its regulations has occurred should analyse the circumstances and institute the corresponding proceedings. Without prejudice to this, the outcome of such proceedings should be notified to the other State concerned, and it should be ensured that the sanction imposed on the offender is effective. It is therefore essential to implement a system of international cooperation not only to give effect to sanctions, but also to enable States to prevent and deter the commission of unlawful acts.

## 4. ACTION BY THE COMMITTEE

4.1 The Legal Committee is invited to:

a) take note of the considerations set out in this Working Paper; and

b) consider the implementation of a system of international cooperation not only to give effect to sanctions, but also to enable States to prevent and deter the commission of unlawful acts.

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