



ASSEMBLY — 39TH SESSION

LEGAL COMMISSION

Agenda Item 47: Other issues to be considered by the Legal Commission

SANCTIONS FOR DISRUPTIVE PASSENGERS

(Presented by Guatemala, with the support of the member States of the Latin American Civil Aviation Commission (LACAC))²

EXECUTIVE SUMMARY

Passengers who behave in an undisciplined, unruly, or disruptive manner affect air services with their harmful acts of insubordinate behaviour on board aircraft. They pose a threat to on-board safety and disrupt operations, and their behaviour entails significant costs for airlines and airport operators. In order to deter such behaviour, Colombia decided to strengthen its framework of sanctions and impose administrative sanctions on disruptive passengers, thereby helping to protect operational safety, airport safety, and the sustainable development of air transport.

Action: The Assembly is invited to consider these experiences in the work undertaken to update Circular 288.

<i>Strategic Objectives:</i>	Supporting Implementation Strategies – Programme Support – Legal Services and External Relations
<i>Financial implications:</i>	Not applicable
<i>References:</i>	Doc 10022, <i>Assembly Resolutions in Force</i> (as of 4 October 2013) Doc 10034, <i>Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, Done at Montréal on 4 April 2014</i> <i>Final Act of the International Conference on Air Law to Consider Amending the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963) held under the Auspices of the International Civil Aviation Organization at Montréal, 26 March to 4 April 2014</i> Circ 288, <i>Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers</i>

¹ Spanish version provided by LACAC.

² Argentina, Aruba, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, the Dominican Republic, Uruguay, and Venezuela

1. INTRODUCTION

1.1 The International Civil Aviation Organization (ICAO) convened the International Conference on Air Law, which was held in Montréal from 26 March to 4 April 2014, to consider amending the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (Tokyo, 1963). The Conference produced the *Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft* (the Protocol). Article XV of the Protocol establishes that the Protocol itself is a complement to the Convention and that, for the States party to the Protocol, the Convention and the Protocol “shall be read and interpreted together as one single instrument and shall be known as the Tokyo Convention as amended by the Montréal Protocol, 2014.”

1.2 The Conference decided not to include a list of offences and other acts in the Protocol, but recommended the updating of ICAO Circular 288, *Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers*.

1.3 Although international law has made significant progress, adequate national legislation and regulation are needed for effective handling of minor offences and other acts committed by unruly or disruptive passengers on board civil aircraft.

2. DEVELOPMENT

2.1 Colombia, upon observing an increase in the number and gravity of incidents reported to ICAO involving unruly, disruptive, or unmanageable passengers on board civil aircraft, and considering the implications of these incidents for the safety of aircraft and of the passengers and crew on board, deemed it necessary to adopt provisions directed at discouraging unruly, disruptive, or unmanageable behaviour. As a result, it incorporated the classification and/or adaptation of this behaviour into its regulatory framework and linked it to its framework of sanctions, establishing administrative sanctions for disruptive passengers.

2.2 In the past five years, Colombian passenger air transport has experienced a significant increase in the on-board admission of people associated with different levels of education and different levels of control. This is due to the various offers and promotions available from airlines and to the appearance of low-cost airlines on the market. However, because of the growth of air transport, in recent years there have been events which have transformed aviation security.

2.3 Recently, a group of 36 passengers travelling on a low-cost airline violently burst through one of the doors of a remote hall at an air terminal, gaining access to the apron parking position. The passengers took this action in response to the cancelling of their flight and the lack of information provided by the airline.

2.4 To discourage such behaviour, the aviation authority launched an administrative enquiry into the passengers involved in the incident, ultimately levying a fine of 14 trillion pesos (equivalent to approximately USD 4,500) per passenger. The ruling allows for legal recourse for the purposes of becoming final.

3. CONCLUSION

3.1 In view of the preceding considerations, all Contracting States are urged to enact, as soon as possible, national law and regulations to deal effectively with the problem of unruly or disruptive passengers, incorporating so far as is practical administrative sanctions corresponding to the jurisdiction of the civil aviation authorities as a complement to the measures applicable by other judicial authorities.

3.2 There must be encouragement of coordination among the various parties concerned, such as civil aviation authorities, airport operators, and police and judicial authorities, in order to back cases up with sufficient, relevant, and factual evidence.

3.3 The Colombian experience is put forward in the spirit of mutual assistance among States to deter unruly behaviour and restore order and discipline on board aircraft.

3.4 The Assembly is invited to consider the experiences herein in the work undertaken to update Circular 288.

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