



**WORKING PAPER**

**ASSEMBLY — 41ST SESSION**

**EXECUTIVE COMMITTEE**

**Agenda Item 28: Other high-level policy issues to be considered by the Executive Committee**

**SPECIFICS REGARDING THE ASSESSMENT OF RISKS AND THREATS TO CIVIL AVIATION SECURITY AND SAFETY OF CIVIL AIRCRAFT OPERATIONS OVER OR NEAR ARMED CONFLICT ZONES AND IN THE CONTEXT OF MARTIAL LAW DECLARED IN A STATE**

(Presented by Ukraine)

**EXECUTIVE SUMMARY**

Armed conflicts cause a certain risk to civil aircraft operations, which cannot be anticipated most assuredly. Having this in mind, one finds it appropriate to presume that profound analysis ought to be conducted pertaining to cases deriving from the state's incapability of controlling its sovereign territory and airspace above it. Consequently, the availability and type of weapons being circulated in conflict zones, as well as sides or parties that wield particular weaponry, may be determined as classified information or processed as information not to be divulged in any other way. This contention comprises specific factors to be deservingly taken into account when assessing risks and threats to civil aviation security and safety of civil aircraft operations.

**Action:** The Assembly is invited to:

- a) take note of the information presented in this paper;
- b) request the ICAO Council to develop effective mechanisms for assessing risks and threats to civil aviation security and the safety of civil aircraft operations over or near armed conflict zones and in the context of martial law declared in a State;
- c) request the Secretary General to consider possible assisting measures under ICAO umbrella aimed at restoring the full-scale functioning of the civil aviation industry under the conditions of countering the armed aggression of the Russian Federation against Ukraine; and
- d) request the ICAO Council to remain seized of this matter.

<i>Strategic Objectives:</i>	This working paper relates to the Strategic objectives: Safety, Security and Facilitation
<i>Financial implications:</i>	The implementation of this working paper does not require financial resources
<i>References:</i>	C-DEC 225/4 Doc 10084, <i>Risk Assessment Manual for Civil Aircraft Operations Over or Near Conflict Zones</i> EUROCONTROL Civil-Military Cooperation Strategy

## 1. INTRODUCTION

1.1 In response to the downing of Malaysia Airlines flight MH 17 on 17 July 2014, the International Civil Aviation Organization (ICAO) took several initiatives, the first of which was to host a special high-level meeting on 29 July 2014, with the participation of the Airports Council International (ACI), the Civil Air Navigation Services Organisation (CANSO), and the International Air Transport Association (IATA). The meeting adopted a joint statement expressing strong condemnation of the use of weapons against civil aircraft. In this regard, ICAO has begun to pay significant attention to issues related to civil aviation security and safety of civil aircraft operations in the airspace over or near conflict zones.

1.2 When considering the risks associated with flying over or near armed conflict zones, as well as in the context of martial law declared in a State, the most important factor is deemed to be a direct threat to the civil aviation industry. The likelihood of a threat arising from the intent and possibility of an attack against a civil aircraft over or near a conflict zone is a key risk assessment factor and a precondition for the identification of mitigation measures to apply. Any mitigation measures to reduce vulnerability ought to be taken before the aircraft reaches the conflict zone, so comprehension of a particular threat at the initial stage of the flight is one of the key factors. Thus, it is necessary to focus prioritising on the initial threat assessment, which implies collecting relevant information from all available sources, including information law enforcement and other government agencies bearing responsibilities for security. This kind of information reflecting specific military capabilities is the main source for identifying hazards that pose a risk to civil aviation. The information thus obtained pertaining to existing threats and hazards is a valuable contribution to the risk assessment process that turns out to be solid grounds for decision-making in relation to the probability of further continuation of civil aircraft operations over or near armed conflict zones, as well as in the context of martial law.

1.3 Relevant risk assessment information is an important aspect that allows determination of risk tolerance. Although there is a requirement in Annex 17 to the Convention on International Civil Aviation for any ICAO Member State to constantly review the level and nature of threats to civil aviation within its territory, including the airspace above it, as well as a requirement to establish a process to make such information available to its aircraft operators and air navigation service providers, there are differences in how each State can implement these requirements.

1.4 A State's involvement in the risk assessment and decision-making process to determine an acceptable level of risk may proceed with specific variations. For instance, one State may not be involved in such a process at all. Another State, on the contrary, may promulgate regulations limiting or prohibiting certain operations. Furthermore, there are differences in how States disclose relevant information on risk assessment. The extent of information and dissemination methods largely depends on a State's ability to collect, process, and analyse relevant information, as well as on its legal powers and duties for issuing prohibitive and limiting regulations.

## 2. UKRAINE'S EXPERIENCE IN ASSESSING RISKS AND THREATS TO CIVIL AVIATION SECURITY

2.1 In Ukraine, Guidance on Assessing Risks and Threats to Civil Aviation Security (hereinafter referred to as the Guidance) has been adopted at the State level. The Guidance requirements apply to the National Civil Aviation Authority, as well as to aerodrome/airport operators, aircraft operators, and air navigation service providers. Based on the Guidance, aerodrome/airport operators, aircraft operators, and air navigation service providers develop their own manuals and conduct assessments of risks and threats. The Guidance contains a methodology for assessing risks and threats to civil aviation security.

This methodology is fully consistent with the relevant ICAO methodology, which is set out in ICAO Doc 8973, *Aviation Security Manual*.

2.2 The Guidance introduces a systematic approach to risk management in the area of civil aviation security in order to ensure the safeguarding of civil aviation against acts of unlawful interference, as well as the implementation of aviation security measures respective to the nature and level of threat.

2.3 The Guidance identifies ways to provide human and material resources for the effective assessment of risks and threats, development and implementation of appropriate preventive aviation security measures to reduce the risk of unlawful interference to acceptable levels; coordination and cooperation (at the State level) of executive bodies and law enforcement agencies involved in the implementation of the State Civil Aviation Security Program in order to timely receive information from the Civil Aviation Authority and aviation entities with regard to the activities of international and domestic terrorist groups in order to assess the level of risks and threats according to the relevant criteria (probability and consequences of human casualties and loss of material resources as a result of committing acts of unlawful interference); application of a standardized methodology for assessing risks and threats; introduction and promotion of security culture by aviation entities.

2.4 The assessment of risks and threats to civil aviation security is carried out by the working group of the Civil Aviation Authority on a regular basis. To be eligible to take part in this body, members of this working group must have practical experience in the field of aviation security for at least three years, pass training in risk management, and acquire knowledge concerning methods and means of committing acts of unlawful interference.

2.5 The working group of the aviation entity carries out the assessment of risks and threats to aerodrome/airport operators, aircraft operators, and air navigation service providers. This working group must be headed by the deputy director for aviation security.

2.6 Aerodrome/airport operators, aircraft operators, and air navigation service providers assess the level of risks and threats on a quarterly basis. Additionally, aircraft operators assess the level of risks and threats prior to performing each flight. Based on the results of their own assessments, as well as on the results of the relevant assessments conducted by the Civil Aviation Authority, aerodrome/airport operators, aircraft operators, and air navigation service providers introduce and implement adequate aviation security measures for safeguarding civil aviation against acts of unlawful interference. These measures must be commensurate with the nature and level of threat.

2.7 The results obtained from the assessment of risks and threats are provided to the Civil Aviation Authority. In the case of receiving threat information from any source, aerodrome/airport operators, aircraft operators, and air navigation service providers shall carry out an additional assessment of risks and threats.

### **3. RISKS AND THREATS TO THE CIVIL AVIATION SECURITY OF UKRAINE AND NEIGHBOURING STATES CAUSED BY THE ARMED AGGRESSION OF THE RUSSIAN FEDERATION**

3.1 Due to the extremely high risk posed to civil aviation security by the full-scale armed aggression of the Russian Federation against Ukraine, on 24 February 2022, since 2.45 Kyiv time, urgent

measures were taken to close the airspace of Ukraine for civilian airspace users. On the same day, martial law was declared in Ukraine, and the provision of air traffic services for civilian users of Ukraine's airspace was suspended.

3.2 On 25 February 2022, the ICAO Council discussed the situation unfolding in Ukraine during the Second Meeting of its 225th Session. A representative of Ukraine also participated in the Council meeting on the basis of the State's interest in the situation. The Council considered the topic on the basis of an oral report presented by the President of the Council, together with a presentation from the ICAO Secretary General, which updated Representatives on the operational aviation context.

3.3 The Council condemned the violation of the territorial integrity and sovereignty of a United Nations Member State, including its airspace, as being inconsistent with the principles of the United Nations Charter and Article 1 of the Convention on International Civil Aviation.

3.4 The Council underscored the paramount importance of preserving the safety and security of international civil aviation and the related obligations of Member States and in this context, urged the Russian Federation to cease its unlawful activities to ensure the safety and security of civil aviation in all affected areas, and to respect its obligations under the Chicago Convention as well as other relevant international air law treaties. The Council called upon all the parties concerned to seek to resolve the crisis through peaceful dialogue and diplomatic channels.

3.5 The Council also recalled with deep sorrow the human suffering that was caused as a result of the downing of flight MH17 in the east of Ukraine on 17 July 2014 and underlined that such a tragedy should never happen again. In the same context, the Council reconfirmed its support to the "Safer Skies" initiative led by Canada relating to improving international efforts to safeguard civilian flight operations over or in the vicinity of conflict zones.

#### **4. ASSESSMENT OF RISKS AND THREATS TO CIVIL AVIATION SECURITY AND SAFETY OF CIVIL AIRCRAFT OPERATIONS WHILE PERFORMING FLIGHTS OVER OR NEAR ARMED CONFLICT ZONES AND IN THE CONTEXT OF MARTIAL LAW DECLARED IN THE COUNTRY**

4.1 When planning and performing flights over or near armed conflict zones, as well as in the event of martial law, the aircraft operator should take into account information on airspace restrictions or closures by air traffic control authorities and the reasons for such restrictions and/or prohibitions.

4.2 When performing flights over or near armed conflict zones, as well as in the event of martial law, the aircraft operator should assess risks and threats with regard to both intentional (planned) attacks and unintentional offences against civilian aircraft.

## 5. COOPERATION BETWEEN MILITARY AND CIVIL AVIATION SECTORS IN ORDER TO ENSURE THE CIVIL AVIATION SECURITY AND SAFETY OF CIVIL AIRCRAFT OPERATIONS

5.1 Aviation security has always been a key element of cooperation between the military and civil aviation sectors. In this regard, EUROCONTROL has launched its new Strategy for Military-Civil Cooperation, which clearly expresses the Agency's support to civil-military cooperation at a time when it has become particularly important and relevant in relation to Russia's unprovoked military invasion of Ukraine.

5.2 Aviation security is a requirement for civil-military cooperation and an enabler for civil-military interoperability. Threat evolution and monitoring, threat and risk assessments, and mitigation strategies are at the core of the security activities. The future aviation environment will continue to depend on data exchange between the military and civil aviation sectors. The use of shared infrastructure will increase as the military requires a secure, resilient and robust air traffic management system to guarantee the efficient conduct of security and defence missions.

5.3 Another important aspect is the coordination of data exchange between the military and civil aviation sectors. However, the real challenge is to develop a policy on what data can be shared and under what conditions, requirements, and governance. Therefore, a common civil-military policy on aviation security and flight safety, as well as procedures for its implementation, are needed to ensure the necessary data sharing.

## 6. CONCLUSIONS

6.1 In light of ICAO's initiatives and with the view to address aviation security and safety of civil aircraft operations over or near armed conflict zones, as well as in the context of martial law declared in a State, the Secretary General is invited to consider possible assisting measures under ICAO umbrella aimed at restoring the full-scale functioning of the civilian aviation industry under the conditions of countering armed aggression undertaken by the Russian Federation against Ukraine.

6.2 Taking into account Ukraine's experience in assessing risks and threats to civil aviation security and safety of civil aircraft operations, it is also necessary for the ICAO Council to develop a common approach, and effective mechanisms for assessing risks and threats to civil aviation security and the safety of civil aircraft operations over or near armed conflict zones and in the context of martial law declared in a State.

6.3 Ukraine calls upon ICAO Member States and the aviation industry to support and participate in the Safer Sky Forum initiatives to bring together national, international, and industry experts to share best practices and expertise in civil aviation risk management over or near armed conflict zones.