

Unruly & Disruptive Passengers, Public Health Measures & Montreal Protocol 2014

Tan Siew Huay, Director (Legal)
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Tools & Guidance

"TOOLS & GUIDANCE"

"ICAO already has the tools and guidance available that can help States to deal with all kinds of unruly passenger offences and acts – need to encourage their use"

"States should remove jurisdictional gaps (MP14) and ensure that enforcement measures are in place consistent to the type/severity of incidents – ICAO Manual Doc 10117"

- ❑ **Tokyo Convention 1963**
- ❑ **Montreal Protocol 2014**
- ❑ Assembly Resolution A33-4: Adoption of national legislation on certain offences committed on board civil aircraft (unruly/disruptive passengers)
- ❑ Circular 288 – Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers
- ❑ Manual on the Legal Aspects of Unruly Passengers (Doc 10117)
- ❑ **Annex 9 – Facilitation**
- ❑ Facilitation Manual (Doc 9957)

Tokyo Convention 1963 & Montreal Protocol 2014

| | Tokyo Convention 1963 | Montreal Protocol 2014 |
|-----------------------------------|---|---|
| Application | <ul style="list-style-type: none"> • Offences against penal law • Acts jeopardizing safety or good order & discipline on board | [no change] |
| Jurisdiction | <ul style="list-style-type: none"> • State of registration | <ul style="list-style-type: none"> • State of landing • State of the operator |
| Aircraft Commander's powers | <ul style="list-style-type: none"> • Power to restrain an offender until the next landing • Power to disembark & deliver offender in the State of landing | [no change except with regard to the commander's belief relating to the "serious offence"] |
| State's obligations | <ul style="list-style-type: none"> • To allow disembarkation • To take delivery of delivered offender | [no change] |

Assembly Resolution A33-4

33rd Session of the ICAO Assembly adopted **Resolution A33-4 “Adoption of National Legislation on Certain Offences Committed on Board Civil Aircraft (Unruly/disruptive Passengers)”**

- The Resolution sets forth **model legislation** on certain offences committed on board civil aircraft & jurisdiction
- The Resolution urged “all Contracting States 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 practical” the model legislation set out in the appendix to the Resolution.
- The Resolution also calls on all Contracting States to submit to their competent authorities for consideration of **prosecution** all persons whom they have a reasonable ground to consider as having committed any of the offences set out in the national laws and regulations so enacted, and for which they have jurisdiction in accordance with these laws and regulations.

Circular 288

Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers

- Addresses three major areas for action
 - the list of specific offences for inclusion in national law,
 - the extension of jurisdiction over such offences, and
 - the appropriate mechanisms for addressing these offences.
- Addressed to the Contracting States of ICAO for their information and **recommended action**.
- Principally covers the legal aspects of the unruly passenger problem.

Manual on the Legal Aspects of Unruly Passengers (Doc 10117)

- Updates ICAO Circular 288 — *Guidance Material on the Legal Aspects of Unruly/Disruptive Passengers*, as a result of the adoption of the Montréal Protocol of 2014.
- Contains guidance on **legislation** covering acts and offences, as well as elements of an **administrative sanctions** regime, which will assist States in implementing the appropriate legal measures to prevent and deal with unruly and disruptive passenger incidents.
- **Identifies related ICAO publications** on other preventive and remedial measures in the areas of aviation security, facilitation and cabin safety.

Annex 9 - Facilitation

E. Unruly passengers

6.43 Each Contracting State shall, to deter and prevent unruly behaviour, promote **passenger awareness** of the unacceptability and possible legal consequences of unruly or disruptive behaviour in aviation facilities and on board aircraft.

6.44 Each Contracting State shall take measures to ensure that relevant personnel are provided **training** to identify and manage unruly passenger situations.

Note.— Guidance material on the legal aspects of unruly/disruptive passengers can be found in the Manual on the Legal Aspects of Unruly and Disruptive Passengers (Doc 10117).

Facilitation Manual (Doc 9957)

6.5.3**Notification to passengers** of the unacceptability and the consequences of unruly behaviour can be accomplished, for **example**, by posters displayed throughout the terminal areas of an airport, and by the placement of notification cards in ticket jackets and on board aircraft.

6.5.4 .. guidance on what can be done to spot a potential problem before it happens. Ground and air staff can be **trained** in passenger service skills to minimize stressful interactions, in the recognition of the signs of a passenger who is a little more likely, due to either general instability or reaction to immediate stress, to explode into unsavoury behaviour, in the recognition of potentially escalating situations, and in crisis containment. More information on preventive measures against unruly passengers can be found in ICAO's Aviation Security Training Package (ASTP) No. 123P6 (Airline).

***Do the “tools & guidance”
apply to non-compliance with
public health measures
on board aircraft?***

And the answer is

Application to non-compliance with public health measures

- **Yes**; the “tools & guidance” can apply to non-compliance with public health measures (e.g. mask wearing requirement).

..... *“Same problem; different context”*.

- And, nothing in the Tokyo Convention as amended by the Montréal Protocol of 2014 shall affect the State’s right to introduce or maintain in its national legislation **appropriate measures** in order to punish unruly and disruptive acts committed on board
- But of course, there are various **considerations** to take into account in **enforcement action**...

Enforcement Actions

- ❑ States are encouraged to initiate **appropriate criminal, administrative or any other forms of legal proceedings** against any person who commits on board an aircraft:
 - an **offence** against penal law, or
 - an **act** which may or does jeopardize the **safety** of the aircraft or of **persons** or property therein or which **jeopardizes good order and discipline** on board, in particular:
 - physical assault or a threat to commit such assault against a crew member; or
 - refusal to follow a lawful instruction given by or on behalf of the aircraft commander for the purpose of protecting the safety of the aircraft or of persons or property therein

Adopting the “tools & guidance”

- And, States are encouraged to consider adopting the latest ICAO “tool & guidance”:
 - ratify **Montreal Protocol 2014** (currently 36 States Parties)
 - use the **Manual on the Legal Aspects of Unruly and Disruptive Passengers**

MP14 Ratification - *Benefits*

- ❑ **Strengthens capacity** to curb the escalation of the severity & frequency of unruly & disruptive behaviour occurring on board aircraft
- ❑ **Additional jurisdictional bases** (State of landing & State of the operator) to initiate criminal, administrative or other form of legal proceedings against unruly/disruptive passengers
- ❑ Therefore, better able –
 - to protect crewmembers & passengers
 - to keep flying safe
 - safety of aircraft, persons & property on board
 - maintain good order & discipline on board