

Ensuring aviation activity methods of administrative law

Abstract: It is considered the issues of ensuring of aviation activity by means of administrative law. Its content in the sphere of civil aviation was disclosed. The role of aviation personnel in the sphere of provision of flights of aircrafts and organization of air traffic was considered. There was emphasized a dominant mission of personnel of civil aviation - safeguarding of security of flights. Content of the following concepts was provided: a) administrative law; b) administrative and legal means; c) personnel of civil aviation; d) security of flights; e) aviation activity; f) safe activity in aviation. There was produced a juridical analysis of legal forms and methods for provision of security of aviation activity and the ways of their improvement were proposed.

Keywords: administrative law; administrative and legal means; personnel of civil aviation; security of flights; aviation activity; safe activity in aviation.

The purpose of the civilian aviation system of Ukraine is determined by the need to ensure observance of the rights and properties of staff in the implementation of aviation activities by means of legitimacy and safety. The peculiarity of this activity in civil aviation due to the dominant mission of civil staff is care of flight safety. A primary importance in getting qualitative properties of personnel which necessary to carry out the tasks and responsibilities, plays professional using the administrative and legal means. Given appropriate to consider in more detail the content of the above concepts, namely: firstly, referring

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to the administrative and legal means; secondly, what represents the staff of civil aviation and, thirdly, the need to understand the definition under safe activities.

According to V. K. Kolpakov, administrative law is a branch of law, which is formed by means (norms, relation, laws, methods, forms, status of persons, ways to implement the rules, regulations and individual acts) of protected and defended the public relationship, and provides functioning the public administration (public management) [1, p. 171].

Extrapolating the definition in our research can determine that the administrative and legal means to ensure the safety of civil aviation personnel include: standards; relations arising in the implementation of civil aviation personnel of their functions; determine the status of each of the elements of the system of civil aviation personnel; methods and forms used for regulation of their activities; legislation, regulation means implementing regulations; regulatory and individual acts regulating safe activity of civil aviation staff.

Staff civil aviation can be defined as the set of employees who make up the organization of the system [2], which acts as an integrated feature of the unity of purpose in their work, which is to ensure the safety of civil aviation. The staff of civil aviation consists: a) aviation personnel (Art. 49 Air Law of Ukraine) [3]; b) other personnel relating to the civil aviation. These include: 1) employees of the State Aviation Service of Ukraine; 2) employees of airlines (operators); 3) employees of airports; 4) employees of airports; 5) employees of companies with maintenance and repair; 6) state inspectors on aviation oversight; 7) employees of educational institutions; 8) employees of producers of aviation technology in Ukraine; 8) employees of the National Bureau of investigation of aviation accidents and incidents of civil aircrafts; 10) employees of Ukrainian state production engineering and research institute of civil aviation “Ukraeroproekt”; 11) employees of the State Enterprise Air Traffic Service of Ukraine (UkAviaRuh); 12) Public Council at the State Aviation Administration [3].

In view of the foregoing is a multifunctional organization, each of the functions of occupational groups of employees in civil aviation shows their

orientation (directly or indirectly) to ensure the safety and the implementation of aviation.

In aviation activities mean activities of individuals and entities that directly aims to achieve the objectives of civil aviation to all types of organizations and flight support, regulation and air traffic services, development, production, modernization, technical support operation and maintenance of aircraft, regulatory implementation regulation, management and monitoring of and ensuring aviation safety and aviation security as a whole [5].

Common features of organization include: the availability of resources (human, material, technological, financial and informational); depending on the environment (economic conditions, legislation, competition, etc.); availability of labor division (horizontal and vertical); the presence of certain structural construction and the need for management; certain types of activities in accordance with the objectives outlined.

Internal organizational structure represented by the presence of connections, which are divided into three main categories: organizational and substantive occurring among workers about their use of various means; organizational and functional, that is, the relationship between workers according to their participation in common professional work; organizational – administrative, resulting subordination of workers that ties management and employees.

All employees of civil aviation are now in the employment relationship, regulated by the Code of Labor Laws (Labor Code), or the Law of Ukraine “On civil service”, or the provisions of part-time job, activities based on the term and indefinite employment agreement (contract) that causes major types jobs or functional responsibilities, working conditions and wages. Staff as the human factor is of particular importance in the sphere of civil aviation. This is explained by the fact that civil aviation is the mode of transport increased danger because professional skills, responsibility, self-control, self-discipline, mutual assistance, other individual, social and psychological qualities affect both the safety and the production and economic performance of the civil aviation. The high part of the

human (personal) factor in ensuring aviation safety statistics analysis indicates aviation accidents. According to recent decades in the global civil aviation more than 70 % of all aviation accidents associated with human factor.

Analysis of safety and potential factors of accidents with civil aircraft prepared by the Sector Analysis and prevention of aviation accidents National Bureau of investigation of aviation accidents and incidents of civil aircraft (NBRTSA) for 2015 in the operation of civil aircraft (CA) Ukraine to implement passenger traffic and freight one, in carrying out aerial work, training flights and during the operation of the aircraft occurred 3 disaster; 3 accident, 5 serious incidents; 31 incident.

In 2015, the main factors that led to the emergence of aviation accidents and incidents are: technical factor – 24% (it also includes production and design defects), environmental factors – 24% (including ornithology). 20% is the human factor (16% – crew, 2% - maintenance staff, 2 % – staff of airports) organizational factor occupies 5 %. Also, 27 % of the events are not the factors that investigation is not yet complete, or the companies consider that it unnecessary to inform the National Bureau of the results of its investigations.

Considering this, the civil aviation, as well as the entire society is constantly progressing in its development, there is a need for adoption and effective implementation of a large system of legal and technical measures managing its operations. The aim of these measures is to ensure reliable and efficient and safe operation of air transport. Significantly affect the order of scientific and technological progress, the overall level of aviation regulatory framework and political, economic, and other factors. International aviation agreements, regulations and standards of ICAO (International Civil Aviation Organization) aim to achieve a safe and regular air traffic, uniform application and unconditional implementation of aviation regulations.

To the administrative and legal means to ensure aviation safety assign, primarily, compulsory rules concerning security, because all other means aims to ensure their implementation, prevention and suppression of violations, bringing the

perpetrators to administrative responsibility. Furthermore, as a separate link of this system means allocated promotional and other measures of persuasion.

Types of compulsory rules relating to aviation security can be classified according to the following criteria: subject of regulation; bodies that set the rules (legal force); content and legal nature of the prescription; scope in time, in space and of personal.

Compulsory rules and regulations on the basis of which they are installed, determine their validity. Thus, the leading role played by the rules of the Constitution of Ukraine and occupy the central place the legislative acts which include their own laws, codes, fundamentals of law and other acts adopted by the Verkhovna Rada of Ukraine. The focus of the regulatory impact of legislation in force in this area makes them the division into two types: regulating organization of airspace and regulating the activities of civil aviation personnel to ensure aviation safety.

Civil aviation staff exercises their powers in the majority on the basis of the rules of administrative law, as determined by the relationship between power-submission, in which there is legal inequality of participants. It is worth noting that each of the elements of a system Civil Aviation staff has a legal (regulatory fixed) status, which allows to implement state functions in civil aviation. In the presence of potential subjective rights and obligations, marketed as administrative relationships and outside them is a necessary feature of acquiring entity administrative - legal status. The presence of these elements determines the content of the administrative and legal status of civilian aircraft, position (location) of subjects in the sphere of air transport management system; competence (authority) or authority (manager, aviation personnel); a set of legally prescribed rights and obligations, the implementation of which provides the performance of their main functions; obligation to bear legal responsibility for the results of their duties (*delictozdatnist*, ability to bear legal responsibility for the offense).

To ensure the safety of civil aviation personnel, according to Doctor of Law, Professor R.A. Kalyuzhno [7, p.38], using a 'set' methods, usually two,

persuasion and enforcement. Each method allows forming a proper idea of the need of the system to ensure safety as determining the impact of a specific subject to the appropriate object in order to support sustainable air transport safe condition. A special place is the method of persuasion, which is very closely linked to the prevention and administrative enforcement (such measures can not break and consider each other because between them there is a dialectical unity. They have an objective, and their use is caused by the level of development of public relations). Persuasion is a system of measures of educational, explanatory, promotional measures aimed at forming legal entities consisting of aviation, a clear understanding of the need to meet the requirements of laws and regulations. However, practice shows that the most effective way to influence the behavior and activities of individuals who impede the implementation of the functions assigned to the system security of aviation, is a method of administrative enforcement or constraint. This method, according to most scientists, lawyers, consisting of measures of administrative alert, administrative suspension and administrative responsibility. Similar measures apply administrative enforcement and in ensuring safety of aviation [7, p. 39].

State administration in the area of civil aviation security is manifested in particular by the legislation of legal forms, publications competent public authorities and other entity who delegated this right in accordance with the law, regulations, and enforcement of individual (executive and administrative) and acts occurred in certain legislation and other actions that have legal significance.

Using the traditional approach of scientists in administrative law administration forms are divided according to their effects on generated: right and wrong. There are different classifications of legal forms, in particular, scholars have identified: a) content: establishment of law and legally able; b) purposefulness: internal and external; c) the method of expression: verbal and conclusive. The most thoroughly regulated forms relating to the implementation of establishment of law and legally able and law enforcement functions Public

Administration. Because they cause the most significant legal operations and their regulation is important from the standpoint of ensuring legality [8 p. 181].

Legally able form of aviation security - is actually a specific activity of providing security called for the implementation of legal regulations concerning specific life cases. It is carried out by issuing individual (executive and administrative) acts of management, administrative law concluding agreements (in particular the protection of civil aviation) and occurred in certain legislation and other actions that have legal significance. The mentioned activity is carried out by:

- registration of civil aircraft; civil airfields; airways and local air lines;
- admission to the operation of the aircraft, including light; to the operation of airports, landing areas, airports; aviation personnel to aviation; aircraft for flight;
- permitting, for the operating civil aircraft; on departure from and arrival airports to Ukraine airports; to carry firearms, ammunition, explosives and poisonous substances, nuclear fuel, radioactive materials and other goods belonging to particularly dangerous; pursuant air operations by foreign operators; pursuant irregular international flights testimonies flight crew;
- licensing - mainly auxiliary and applies only to business entities in the field of aviation;
- certification (Article 13 of Air Code).

Among the assets effective role exercise control and supervision activities, which enables timely detection of causes of violations and their perpetrators, but as the ultimate goal of control and surveillance is still correct and eliminate violations. Control and supervisory activities in the sphere of aviation - a special kind of administration authorized control (supervision) and hierarchically structured of civilian aircraft, which are aimed at ensuring the proper state controlled (supervised) objects to achieve the objectives and implementation their duties.

For example, the State Aviation Service (*Derzhaviasluzhba*) exercises control and supervision of the certified inspection organization by Organizations. The organization may carry out only those activities and only on the type of aircraft, which are specified in the Certificate of organization and only at the

production facilities that are certified [9]. Carrying out inspections of operators and maintenance organizations must have a legal basis, which is a set of regulations governing activities, the establishment and organization, define the structure, authority or competence.

To carry out inspections appointed Inspector - employee authorized authority on civil aviation, which is empowered to verify the state of the subject and object of aviation and which has a certificate of standard pattern. Depending on the activities they are divided into: state inspectors on aviation security, government inspectors airworthiness of inspectors operating flight.

According to the Order [3] the posts of inspectors aviation oversight Airworthiness of Aircraft (hereinafter - the state inspector of airworthiness) may be in the following areas: airworthiness of such aircraft; approval of maintenance organizations; approval production aircraft; approval developers aircraft; approval of continuing airworthiness management; issuance and review of certificates of airworthiness, continuing airworthiness monitoring and maintenance program; issuing certificates and personnel approval of maintenance training.

State inspector on the basis of official identification and special tasks for the audit has liberty to check the subjects and objects of the aviation, including foreign, in Ukraine operations to oversee aviation safety and compliance with aviation regulations.

State inspector on the basis of the official certificate and a special task for an inspection shall have the right to draw up reports and to consider cases on subjects of aviation activities in the event of their offense in the sphere of civil aviation and individuals in case of exercise of an administrative offense, in violation of the rules relating to safety, rules of conduct on the aircraft, the rules of international flights fire safety in air transport and to impose on them an administrative penalty in accordance with the Air Code of Ukraine and the Code of Ukraine on Administrative Offences [4]. State inspector will document all the results of their actions in the prescribed form and a report in due time of its head of the branch or the head of the temporary working group / committee. Inspection orders issued in

duplicate, attached to the act of inspections and must have a registration number corresponding inspection report. Done act inspections in two copies, one of which is sent to the control inspection and the management of the continuing airworthiness of aircraft depending on the type of the inspection, and the second copy of the guide operator and / or the organization of maintenance service. Acts inspections are recorded in a log book acts inspection management inspection or continuing airworthiness management depending on the type of the inspection report. Within seven working days after the inspection to make test results to the software system Unified Information System of the State Aviation Service (*Derzshaviasluzhba*) [5]. In conducting the certification, unscheduled inspections, audits missions operators, aircraft are currently based outside Ukraine and inspection line and the outer stations of organizations with maintenance, used acts of basic checks, inspections platform and inspections organizations of maintenance service in accordance with the program of inspection and recorded data to software of Unified information system. State inspector of airworthiness conducts inspections in the field of airworthiness for the conditions of appropriate training in areas Inspector of Aviation Safety, except for aviation security.

Integration of Ukraine in the international community to contribute to the continuous improvement of legal, organizational, economic and social measures applied in the process of staff and ensuring its effective functioning. In order to implement high quality functional responsibilities Inspector airworthiness held a special professional – oriented training which includes: theoretical training in the fields; the order of the documents and equipment; practical training (training on the job) and is conducted under the supervision of public officers (instructors).

- special professional - oriented training includes the participation of the candidate as an trainee in the certification and inspection under the supervision of Inspector (instructor). Detailed volume training of state inspectors in areas contained in the management of the structural units.

- advanced training (retraining) state inspectors performed in certified schools every 3 years. In the event of interruption of duty Inspector of more than

six months should undergo training under the supervision of Inspector (instructor-senyora).

- each stage of the preparation must be confirmed by a certificate and / or order.

Formation of innovative mechanisms to use administrative remedies to the staff of civil aviation is largely dependent on the quality of air and administrative law. Thus, the Air Code [3] establishes the legal framework in the sphere of aviation and determines that state regulation of activities in the field of aviation security aimed at aircraft, providing air transportation and aviation works. However, the state must not only declare and create an appropriate legal mechanism realization and protection of human rights in the safe transport and aviation. A special place in this mechanism of realization of state policy and strategy of aircraft owned by Ukraine, the State Aviation Administration of Ukraine, which directly carries out the state regulation of activities in the field of civil aviation and provides a range of measures [Article 10 of Air Code] aimed at preventing aviation accidents by: 1) establishing criteria for aviation safety; 2) establishing the necessary level of aviation safety; 3) to analyze and determine the existing level of aviation safety; 4) scheduled and unscheduled inspections, inspection of facilities and aviation; 5) the timing and exercise control over the corrective actions aviation entities; 6) prohibition, cancellation, suspension or modification to perform any kind of flight and aviation in case of security threats or non aviation standards established and air rules Ukraine; 7) cancellation, suspension of certificates, certificates, licenses, permits, limiting the rights granted to these documents, cancellation of approval of candidates; 8) imposition of fines and take other measures to ensure aviation safety.

In determining the meaning of 'safe work' turns to the concept of 'security'. Security can be viewed as a condition that provides activities: "Safety of flights - conditions that provide flights of flying vehicles (aircraft) without the threat of danger to the crew and passengers of the aircraft, as well as for households and

ground facilities” [10, p. 47] and ‘security’ – the state of protection of vital interests of the individual, society and state from internal and external threats.

In the aviation industry aviation security is seen as a comprehensive description of air transport and aerial work that determines the ability to fly without danger to life and health. Art. 1 of Air Code p. 20 [3] the legislator has determined that the safety of aviation - the state of civil aviation in which a risk of damage to people or property reduced to an acceptable level as a result of a continuous process of determining the level of danger and manage and is kept at a level or declining further aviation safety, aviation security, environmental protection, economic security and information security.

Conclusion. Ensuring safe aviation personnel of civil aviation conditioned complex compulsory use of specific administrative - legal measures of the modern administrative law, where they are timely, appropriate and lawful use of a subjective orientation and aims to prevent administrative violations in the field of civil aviation and compliance with acceptable level of risk society and the state. With the state in organizing aviation activities carried out impact by applying the set of normative - legal acts by which certain activities from the application of a single balanced approach in the civilian aviation division of responsibility between public authorities and business aviation activities, policies and operational procedures to ensure safety, detection and removal hazards and controlling risks to ensure safety to minimize loss of life, material, financial, environmental and social damage.

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