

# Ukraine

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## General

### 1 Which bodies regulate aviation in your country, under what basic laws?

The main authority regulating aviation in Ukraine is the State Aviation Service (SAS), which carries out its activities under Provision No. 389/2011, dated 6 April 2012, on the State Aviation Service approved by presidential decree and by Regulation No. 520, dated 8 October 2014, on the State Aviation Service adopted by the Ukrainian government.

Both the provision and regulation define the functions and main aims of the SAS.

## Regulation of aviation operations

### 2 How is air transport regulated in terms of safety?

The principal instruments regulating aviation safety are the Air Code 2011, which contains the basic provisions relating to aircraft (registration, airworthiness, maintenance), operators (air operator's certificates and licences), personnel (required crew, powers and duties of commander, certification and access of aviation personnel to aviation activities), aerodromes and requirements of safety of environment, and the Law on the State Programme on Civil Aviation Air Safety 2017.

Further detailed safety rules are contained in the following:

- the Provision on management of flight safety systems on air transport No. 1,503/11,783, dated 14 December 2005;
- the Rule of maintenance information for flight safety in the air traffic management system of civil aircraft adopted by Order of the Ministry of Transport and Communication No. 295, dated 19 March 2009;
- the Provision on the review on flight safety in the system of air traffic management approved by Order of the Ministry of Transport and Communication No. 320, dated 31 May 2010;
- the Procedure to agree location and altitude of objects in the vicinity of aerodromes and objects whose activities may affect flight safety and interfere with civil aviation radio equipment adopted by Order of the Ministry of Infrastructure (successor to the Ministry of Transport and Communication) No. 721, dated 30 November 2012; and
- the Flight Safety Programme for 2014–2016 adopted by the Order of the Ministry of Infrastructure No. 18, dated 15 January 2014.

### 3 What safety regulation is provided for air operations that do not constitute public or commercial transport, and how is the distinction made?

Ukrainian law divides air transport into state-owned and civil aviation that is used to satisfy the needs of the economy and citizens in air transportation and aerial works as well as for flights performed for private purposes.

A flight is commercial if it is paid for and if it is made with commercial purpose, including rendering of a medical service. A commercial flight is made under the requirements of OPS-1, which provides rules regulating operations. An operator may perform a commercial flight if it has the right air operator's certificate (AOC) and licence for passenger and cargo transportation.

Aerial works are those that stipulate aircraft flights perform specialised kinds of work in such fields as agriculture, photo-engraving,

mapping, building, air patrol, research and salvage, air advertising, extinguishing of forest fires, etc. Appropriate kinds of aerial work may be performed if the aircraft is airworthy, its operator has the relevant specialised licence to fulfil this kind of aerial work, the aircraft is insured and if the crew has the necessary licences.

Although flights for private purposes are defined, there is no special rule for their safety as they are regulated by general standards for operators' and aircraft safety and pilot licensing.

### 4 Is access to the market for the provision of air transport services regulated, and if so how?

The Air Code provides that an air operator performing transportation of passengers or cargo for a fee or under a contract shall hold the relevant licence. Transportation of passengers or cargo without a licence is forbidden. To have access to the market (ie, to make domestic or international air transportation or charter international flights in or outside Ukraine on a basis of at least one flight per week, or not less than three flights per month, or aviation transportation in other countries) the air operator must have a traffic right allowance (TRA) issued by the SAS. The allowance is issued in accordance with the Aviation Rules of Ukraine's Procedure to issue and to cancel rights to operate air routes, adopted by SAS Order No. 686, dated 24 October 2014, as amended.

To receive a TRA, an air operator must have a licence and an AOC, be at least 50 per cent controlled by Ukraine or Ukrainian citizens and not have any traffic charge debts. A TRA may not be assigned to another operator. Air routes may be operated by several operators if each operator has a TRA on the same route.

### 5 What requirements apply in the areas of financial fitness and nationality of ownership regarding control of air carriers?

To receive an AOC, an air transport company must have sufficient financial resources to perform the transportation, appropriate management and organisational structure, personnel, equipment and documents necessary for air and technical operation of at least two aircraft for air transportation. The operator submits a business plan for two years, approved by the SAS, and other documentation provided for by the Rules of certification of operators of civil aircraft that render commercial transport services under OPS 1 approved by Order No. 430 of the Ministry of Transport and Communication, dated 5 July 2010. The AOC is initially given for one year only.

Requirements on nationality of ownership are contained in the Aviation Rules of Ukraine Procedure to issue and cancel rights to operate air routes and were introduced into national law on 22 May 2015, although they were included in all bilateral agreements on air communication concluded by the Ukrainian government.

### 6 What procedures are there to obtain licences or other rights to operate particular routes?

Ukrainian law does not require a licence to operate particular routes, only a TRA. Furthermore, only an operator with the relevant AOC and a passenger and cargo transportation licence may obtain a TRA. Applications for a TRA on regular domestic, international and charter routes are enclosed with copies of insurance policies confirming the operator's liability, crew and other personnel insurance made under the requirements of the country to which flights shall be made; a three-year

business plan; information on the fleet and volume of taxes paid into the Ukrainian budget; and a list of persons who have ownership and beneficial control over the air operator. A list of foreign countries and their airports and appropriate agreements confirming availability of orders in these countries is added for TRA in foreign countries.

#### 7 What procedures are there for hearing or deciding contested applications for licences or other rights to operate particular routes?

Submitted applications with enclosed documents are considered by a commission on TRA, which is set up by the SAS. All decisions are taken at commission meetings that must be held between the 26th and the last day of each month if there is at least one application for TRA and if at least two-thirds of its members are present. The commission considers all applications received by the SAS before the 20th of the month in which the meeting is held. An agenda of the commission meeting, as well as data on the applications to be considered, are published on the SAS website. Air operators' representatives and other interested persons may be present at the commission meeting. The meeting concludes with the commission's well-reasoned decision which will recommend the SAS Chief either grant or refuse TRA, limit the volume of TRA, amend or cancel existing TRA, or ignore the application. TRA is issued within five days of the approval of the appropriate decision.

A decision may be appealed to the SAS Chief or to a court within 20 days of approval.

Although the established procedure is a little controversial, in practice a TRA may be issued one and a half months after the application submission and operators accept this as, previously, there was no procedure at all.

#### 8 Is there a declared policy on airline access or competition, and if so what is it?

TRA for regular international routes is given to each route under agreements and arrangements concluded between aviation authorities. The air operator may apply for a TRA if it makes regular flights in the country for at least 12 months before submission of its application; this has a positive influence on the maximum permitted frequency that can be calculated under certain formulae.

If there are two or more applications for the same route, which has certain limitations as to operation frequency or quantity of operators under concluded agreements and arrangements between aviation authorities, these applications are assessed under the following criteria:

- actual usage of previous TRA (ratio of frequency of flights to total frequency that the operator has the right to operate);
- amount of taxes paid to the state budget for the 12 months before application submission;
- quantity of aviation accidents on 1 million departures that have to be reported to the SAS for the 12 months before application submission, provided that the flight safety management system and procedure of domestic investigations or accident analysis are available (the lower coefficient, the higher the estimate). If an air operator has no flight safety management system and there is no procedure for internal investigation, accident analysis or flight statistics, the air operator receives no TRA; and
- regularity of flight performance during the six months before application submission (percentage of delayed flights from the total quantity of flights for the stated period).

The highest scorer on each point estimated out of a maximum of 10 receives the right to the contested route.

#### 9 What requirements must a foreign air carrier satisfy in order to operate to or from your country?

There are no special rules for foreign air carriers. Their applications are considered together with the applications of Ukrainian operators under the ballot system described in question 8. Clearly, foreign carriers score lower on such items as taxes paid to the Ukrainian budget, but may accrue higher points on the remaining items.

#### 10 Are there specific rules in place to ensure aviation services are offered to remote destinations when vital for the local economy?

We are not aware of any such specific rules.

#### 11 Are charter services specially regulated?

Charter services are regulated with the Rules on Charter Service Performance approved by Order of the Ministry of Transport of Ukraine No. 297, dated 18 May 2001. Although the rules are somewhat outdated and refer to standard aviation acts that have already been substituted with others, they are the only ones describing the kinds of services and documents to be submitted to the SAS to receive an appropriate allowance if charter service has no systematic series.

The decision to allow a Ukrainian operator to perform a charter flight is taken within 48 hours from an appropriate application receipt if the flight is planned to be fulfilled as follows:

- on a route where there is no regular flight;
- to transport high officials and official delegations of Ukraine;
- with a special or business purpose;
- for personal matters on private jets with a non-commercial purpose;
- as a series of charter flights to resorts;
- to repair, maintain or retrofit aircraft;
- to transport spare parts or engines for operators' needs; or
- to transport goods for repair.

The application is considered by the TRA commission within five days if the charter flight is planned to be performed as follows:

- under a route that has regular flights;
- to regions with unstable military and political, ecological, epidemiologic (or otherwise complex) situation;
- to transport special or dangerous cargo, or goods of military or dual application.

Permission to perform a charter service is given for the term of its performance but no longer than for one IATA season.

Foreign carriers may receive the right to perform a charter service landing on the territory of Ukraine, within 48 hours, under the following conditions:

- to transport high officials and official delegations of other countries;
- to transport humanitarian cargo from Ukraine by a decision of the government of Ukraine;
- for clearance of land connected to acts of God, sanitary, aviation, search-and-rescue work, etc;
- if they are personal private jets with a non-commercial purpose;
- to repair, maintain or retrofit aircraft;
- to transport spare parts or engines;
- to transport goods for repair;
- to transport cargo to the consignor or consignee's country;
- if they involve business transport of up to 15 persons or up to two tonnes of cargo; or
- as a series of charter flights on a route with no regular transportation.

#### 12 Are airfares regulated, and if so, how?

Airfares are not regulated in Ukraine, although the SAS has the right to cancel overly high tariffs in case of insufficient competition or to stop the application of low tariffs if they are lower than prime cost.

To check the viability of fixed tariffs for air transportation, the SAS may oblige an air carrier to disclose the details of tariff formation including costs.

If the air carrier fails to provide the information within the stated term, or the disclosure is incomplete, the SAS has the right to cancel such tariff and withdraw it from the air ticket booking system.

If any international agreement provides for regulation of tariffs the SAS shall impose such tariffs on carriers.

#### 13 Are there any rules regulating the operation of unmanned aircraft systems (drones)?

Ukraine is in the process of adopting such rules. In 2016, the SAS circulated a draft of concept of the provision and procedures to maintain flight safety for drones. It is proposed to mainly follow the recommendations of ICAO document No. 9,760 for airworthiness issues, 'Manual on Remotely Piloted Aircraft System' document No. 10,019

AN/509 and EASA A-NPA 2015-10 and technical opinion for drones classification.

Further, on 30 April 2017, the SAS published its concept on the direction of drones, which established that:

- any drone heavier than 250g must be registered and certified with the SAS
- the drone operator must complete a special online programme to be certified;
- a drone can only be flown during the day, no higher than 120 metres and within a radius of 500 metres from the operator, and must not exceed 150km/h.

## Aircraft

### **14 Who is entitled to be mentioned in the aircraft register? Do requirements or limitations apply to the ownership of an aircraft listed on your country's register?**

Only Ukrainian-owned aircraft or aircraft leased to Ukrainian legal or natural entities may be registered in the Aircraft Register. Further, the following prerequisites must also be satisfied before an aircraft can be registered in the Aircraft Register:

- the aircraft has a 'type certificate', which is issued by the SAS pursuant to the Rules of Aviation Equipment Type Certification;
- the aircraft is not currently registered in any foreign aircraft register; and
- the documents stipulated by the rules are submitted.

### **15 Is there a register of aircraft mortgages or charges, and if so how does it function?**

There is no special register of mortgages, or other rights, over an aircraft in Ukraine. However, a mortgage over an aircraft may be registered in the State Registry of Moveable Property Encumbering (the Mortgage Register) being based on the provisions of the Ukrainian Law on Mortgage No. 2,654-XII, enacted on 2 October 1992. It makes provision as to non-possessory mortgages. The Law states that mortgage of the aircraft shall be made under its prescription at a local notary if the aircraft is registered in the Ukrainian Aircraft Register. Aircraft mortgages are registered in the Mortgage Register pursuant to the Procedure for keeping the Mortgage Register. This procedure was adopted by Cabinet of Ministers Regulation No. 830, dated 5 July 2004, which provides the prescribed form of application to be submitted to the Mortgage Register. There is no requirement for the consent of any official body (including the National Bank) in respect of the registration of any mortgage in the Mortgage Register.

The application must be submitted to the Mortgage Register by the mortgagee. Alternatively, it can be submitted by his or her representative, who must identify him or herself and the authority by which he or she acts (usually, this is a power of attorney to be notarised and apostilled). The application will be registered if it is signed by the person submitting it. If the application is not signed or if the person submitting it fails to identify him or herself, or to prove the due authority under which he or she acts, then registration of the mortgage in the Mortgage Register will not be completed.

Registration will be completed that same day. Registration of the aircraft mortgage is treated as effective from the date and time at which the corresponding entry is noted in the Mortgage Register. The effectiveness of this registration will continue up to the time of the satisfaction of the mortgage. Once the mortgage debt has been satisfied the mortgagee is obliged to notify the Mortgage Register within five days.

If an aircraft registered and mortgaged abroad is planned to be used in Ukraine but is not yet registered in Ukraine, a foreign mortgage may be registered at the Mortgage Register within 30 days of the aircraft's importation into Ukrainian territory. In such case, the Ukrainian mortgage will be treated as perfected from the moment of foreign mortgage registration.

The Mortgage Register is open for any person who wishes to consult it.

### **16 What rights are there to detain aircraft, in respect of unpaid airport or air navigation charges, or other unpaid debts?**

If the aircraft operator (the owner or lessee) fails to pay the requisite air navigation or airport charges, the aircraft may be detained at the airport according to the Civil Code.

Ukraine has joined the Eurocontrol Convention, which provides for the arrest of an aircraft in the case of a failure to duly pay any Eurocontrol charges.

### **17 Do specific rules regulate the maintenance of aircraft?**

SAS requires air operators carrying commercial transportation to follow OPS 1 technical requirements as well as requirements of the aircraft type manufacturer manual and the operator's technical manual.

All tasks related to aircraft maintenance may only be performed by a certified provider.

## Airports

### **18 Who owns the airports?**

Most airports in Ukraine are owned by local government. Only two airports – Boryspil International Airport and Lviv International Airport Danilo Galitsiy – are state owned. Some local airports such as Dnipropetrovsk International Airport, Ivano-Frankivsk International Airport, Mariupil and Kharkiv are privately owned.

The main public airport in Ukraine is Boryspil International Airport (there are plans to change its name). The main regional public airports are Kiev, Odessa, Dnipropetrovsk and Kharkiv. Donetsk airport, which was one of the biggest local airports, was severely damaged in 2014 in the Ukrainian-Russian conflict.

### **19 What system is there for the licensing of airports?**

Any airport planning to commence operation must receive appropriate certification under Airports Certification Rule No. 407, dated 13 June 2006 at SAS.

### **20 Is there a system of economic regulation of airports, and, if so, how does it function?**

There is no special regulation of airports, but we assume that the relevant airport owners impose some regulation on the airports to maintain stability.

### **21 Are there laws or rules restricting or qualifying access to airports?**

Access to airports is regulated by the Rule on managing air transportation flow No. 567, dated 20 July 2016. Air traffic flow and capacity management in Ukraine is managed through collaborative decision-making between the European air traffic management network and local network operations portals. The Rules are based on appropriate Eurocontrol regulations.

### **22 How are slots allocated at congested airports?**

The Rule on issuance of allowances to depart the airports of Ukraine and to arrive at the airports of Ukraine No. 897/703, dated 28 November 2005, as amended, provides an obligation on the carrier to approve slots with the planned arrival or departure airport in advance, with these subsequently being approved by the SAS. In case of a delay of more than 30 minutes, the transfer or cancellation of a flight, the carrier must immediately formally inform the airport.

### **23 Are there any laws or rules specifically relating to ground handling?**

The Air Code of Ukraine has a general provision that ground handling shall be performed under the laws of Ukraine and correspond to standards and ICAO recommended practices.

In addition, there is a specific Recommendation on the establishment of airport fees No. 472, approved by the Ministry of Transport on 1 July 2003. Calculated ground handling fees shall be approved by the Ministry.

There is no regulatory act dealing with the access of ground handling companies to the market.

### **24 Who provides air traffic control services? And how are they regulated?**

Supervision of planning, coordination, usage, service and management of air traffic in the regions of flight information, dispatcher zones and routes is made by the entities of unified civil and military system of air traffic created in 1999.

The schedule of regular domestic and international flights of civil aircraft is approved by the SAS and delivered to Ukrairruh – a state-owned enterprise to service air traffic on corridors, routes and also outside them, as well as at Ukrainian airports – and to the headquarters of the Air Force of Ukraine at least 20 days before departure. The headquarters of the Ukraine Air Force and Ukrairruh control the performance of regular domestic and international flights as well as transit regular flights. Thus all carriers must submit lists of repeated flight plans to Ukrairruh at least 14 days before departing, and seven days in the case of any changes to these lists. In turn, Ukrairruh duly informs the headquarters of the Air Force of Ukraine.

Sporadic international transit flights by civil aircraft are made under information duly submitted to air traffic service bodies which is resubmitted to Ukrairruh. Such information may be submitted 30 minutes before entering Ukrainian air space.

## Liability and accidents

### 25 Are there any special rules in respect of death of, or injury to, passengers or loss or damage to baggage or cargo in respect of domestic carriage?

The Rule on air transportation of passengers and their luggage No. 735, dated 30 November 2012, was elaborated in compliance with EC Regulations No. 1107/2006, 261/2004, Council Regulation No. 2027/97 as amended by Regulation No. 889/2002, Montreal Convention 1999, and the IATA General Conditions of Carriage (passenger and baggage and IATA's resolutions and recommended practices).

The rules on air cargo transportation have been developed to meet the programme of Ukrainian integration into the European Union as of 2000 – the Air Code of Ukraine, the Montreal Convention and Air Waybill, conditions of contract, and IATA Resolution 600b.

### 26 Are there any special rules about the liability of aircraft operators for surface damage?

There are no special rules as to operators' liability for surface damage. In case of any accidents a general rule established by the Civil Code is applied – the operator is strictly liable to cover all damage incurred unless it can prove that the damage arose owing to an act of God or at the victim's instigation.

### 27 What system and procedures are in place for the investigation of air accidents?

Up until the middle of 2015, all investigations concerning air accidents were made under the Rule on Investigation of air accidents and incidents with civil aircraft in Ukraine No. 943. Now, under article 9 of the Air Code of Ukraine, such investigation shall be done by the National Bureau on accidents and incidents investigation (the Bureau).

The Air Code provides, *inter alia*, that the Bureau and the SAS together create a system of obligatory notifications on incidents to gather information on factual and potential risks to flight safety. The SAS defines what incidents and information must be submitted for analysis or investigation by anyone involved in aviation activities, as well as approving a procedure to consider received information, its analysis and the introduction of certain measures. The Cabinet of Ministers of Ukraine approves the rules and procedures for technical investigation of aerial accidents and incidents, extraordinary accidents and the superficial damage to aircraft on land.

However, as neither the SAS nor the Cabinet of Ministers of Ukraine approve stated procedures, the Bureau makes investigation under ICAO standards and recommendations, for the purposes of fulfilling notification SAS's Orders No. 619 and No. 620, both dated 21 August 2013, that are based on ICAO document No. 9,839 AN/474.

Additionally, the SAS introduced methodological recommendations in the implementation of measures of flight safety No. 384, dated 30 May 2016, that are based on ICAO recommendations on the procedures for investigating air accidents.

### 28 Is there a mandatory accident and incident reporting system, and if so, how does it operate?

According to methodological recommendations in implementation of indicators of flight safety No. 384 and the Provision on the system of flights safety management on air transport No. 895, dated 25 November 2005, a crew commander shall immediately report an accident

resulting in the serious injury of passengers or major damage to an aircraft to the operator's management, which shall duly report on the accident to the SAS.

In case of accident, three kinds of notification must be submitted: initial notification transmitted immediately; initial reporting that details air accident circumstances, and, finally, reporting confirming the details of the initial notification.

The carrier's director shall gather operative information and notify the SAS, the local authority on whose territory the accident has occurred, local transport and home affairs bodies within two hours.

The next stage of reporting shall be submitted within three days of the accident.

The SAS informs the ICAO of any accident involving an aircraft weighing more than 2,250kg.

In the case of any accident of foreign aircraft on Ukrainian territory, the SAS additionally informs the state of the aircraft's registration, the carrier, designer and manufacturer.

## Competition law

### 29 Do sector-specific competition rules apply to aviation? If not, do the general competition law rules apply?

No sector-specific competition rules apply to aviation. The Law on the Protection of Economic Competition shall be applied.

### 30 Is there a sector-specific regulator or are competition rules applied by the general competition authority?

As there is no sector-specific regulator the competition rules are applied by the appropriate bodies of the Antimonopoly Committee of Ukraine.

### 31 How is the relevant market for the purposes of a competition assessment in the aviation sector defined by the competition authorities?

As there is no special regulation for the aviation sector, general methodology to define the dominant position of an entity on the market, No. 49-p, dated 5 March 2002, is applied. The evaluation is focused on time, geography and the participants in a market.

### 32 What are the main standards for assessing the competitive effect of a transaction?

A transaction is considered anticompetitive if it concerns the following:

- the setting of prices or other conditions with respect to the purchase or sale of products;
- the restriction of production, product markets, technical and technological development, investments or the establishment of control over them;
- the distribution of markets or sources of supply in accordance with the territorial principle, the assortment of products, the volume of their sale or purchase, within the circle of sellers, buyers or consumers;
- the distortion of the results of auctions, contests or tenders;
- the removal of other economic entities, buyers and sellers from the market or the limitation of their entry into (or exit from) the market;
- the application of different conditions to equivalent agreements concluded with other economic entities, which results in the creation of a disadvantage for these economic entities in terms of competition;
- the conclusion of agreements provided that other economic entities assume additional obligations whose content in terms of customs in trade and other fair practices in entrepreneurial activities have nothing in common with the subject of these agreements; or
- the substantial limitation of the competitiveness of economic entities on the market without objectively justified causes.

The above-mentioned actions may be authorised by the relevant bodies of the Antimonopoly Committee of Ukraine if their participants prove that the anticompetitive actions facilitate:

- the improvement of the production, purchase or sale of a product;
- technical, technological and economic development;
- the development of small or medium-sized businesses;
- optimising export or import of products;

**Update and trends**

In 2017, a popular topic of conversation in regard to Ukrainian aviation was Ryanair, which cancelled its plans to fly to Ukraine allegedly because of counteractions with Ukraine International Airlines and Boryspil airport. In reality, Ryanair demanded a lot of privileges that were in fact anticompetitive, and if their conditions had been met, it would have led to hidden subsidising of foreign carriers.

For example, Ryanair wanted, among other things, air charges that were half the normal price, land to build hotels, hangars, taxi parking and advertising without payment of any charges and taxes and 30 per cent income from duty free shops. One may consider these demands fair if flight is to be provided from regional airports, but not from successfully operated and large Ukrainian airports. As the arrival of large, low-cost airlines has been expected in Ukraine for a long time, Boryspil airport proposed decreased charges for any airline that would provide new routes from Kiev. As Ryanair planned to double existing ones, it might not receive low charges. Moreover, satisfaction of its other demands were impossible as they make it extremely difficult for central airports to make profit, while Ryanair has refused to use regional alternatives.

As 2017 demonstrated a further rise in air passenger transportation of at least 15–20 per cent in comparison to previous years and widespread cancellation of visa requirements to enter the EU, the Ukrainian passenger market has become more interesting for carriers.

- the elaboration and application of unified technical conditions or standards for products; or
- the rationalisation of production.

**33 What types of remedies have been imposed to remedy concerns identified by the competition authorities?**

The main remedy is the imposition of a penalty, the amount of which depends on the type of violation. Besides this, compulsory segregation of an operator may be used.

**Financial support and state aid****34 Are there sector-specific rules regulating direct or indirect financial support to companies by the government or government-controlled agencies or companies (state aid) in the aviation sector? If not, do general state aid rules apply?**

There is no sector-specific rule regulating direct or indirect financial support to companies by the government or government-controlled agencies or companies (state aid) in the aviation sector.

Although the Budget Code of Ukraine provides the possibility for a state to fully or partially guarantee the liability of Ukrainian companies under concluded transactions, such guarantee may be issued only if directly provided by the Law on the State Budget of Ukraine for a certain year. The aviation sector has never been supported by the government or government-controlled agencies or companies.

There are no general state aid rules.

**35 What are the main principles of the state aid rules applicable to the aviation sector?**

See question 34.

**36 Are there exemptions from the state aid rules or situations in which they do not apply?**

See question 34.

**37 Must clearance from the competition authorities be obtained before state aid may be granted?**

See question 34.

**38 If so, what are the main procedural steps to obtain clearance?**

See question 34.

**39 If no clearance is obtained, what procedures apply to recover unlawfully granted state aid?**

See question 34.

**Miscellaneous****40 Is there any aviation-specific passenger protection legislation?**

The issues of passenger protection are contained in the appropriate provisions of the Air Code and Rule of air transportation of passengers and their luggage No. 735, dated 30 November 2012.

There are rules on rendering due assistance to passengers with reduced mobility, children and pregnant women.

The Rules of air transportation of passengers and their luggage provide lists on the lawful denial of boarding in the interests of flight safety. They also have norms on compensating passengers for denied boarding, cancellation or a delay which fully correspond to EC Regulation No. 261/2004. Moreover, the Air Code provides for the carrier's liability for appropriate provisions on compensation in its rules of transportation to be notified to the passengers.

Ukraine has no special passenger protection legislation for package holidays, bankruptcy protection or distribution and airfares.

**41 Are there mandatory insurance requirements for the operators of aircraft?**

The government of Ukraine adopted Regulation No. 1,535, dated 12 October 2002, which obliges Ukrainian carriers to insure liability for the injury or death of passengers on international flights as well as liability of the third parties on the ground within the limits provided by international treaties or the law of a country into whose territory the flight is made, including insurance of war risks. Insurance shall be arranged with local insurance companies, which may re-insure their risks in London or any other international aviation insurance market.

The minimum requirement as to loss or damage to luggage, mail or cargo is limited to US\$20 per kg.



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The minimum requirement for insurance of unregistered hold baggage is US\$400.

As the stated minimum mandatory insurance requirements are very low there is a proposal to raise them up to those recommended by EC Regulation 785/2004.

#### **42 What legal requirements are there with regard to aviation security?**

Ukraine is a party to the Convention for the Suppression of Unlawful Seizure of Aircraft signed in the Hague on 16 December 1970 and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed in Montreal on 23 September 1971.

Ukraine has a State Programme of Aviation Security of Civil Aviation adopted by Law No. 1965-VIII, dated 21 March 2017, which corresponds to United Nations Security Council Resolution No. 1,373, stated above conventions and Annex 17 of the ICAO Convention.

To prevent any weapon, explosives or other dangerous items that may be used in illegal conduct from being taken on board a flight, the following actions are performed:

- controls for access of persons and vehicles into controlled and limited access zones of airports;
- safety controls for personnel and vehicles allowed into limited access zones;
- safeguarding and access control before and after a flight and special aircraft inspection;
- safety controls for crew, passengers, hold baggage, luggage, cargo, courier and mail dispatches, flight and airport supplies and onboard stores including meals;
- the physical protection of the airport perimeter and its patrol; and

- the location of parking no closer than 50 metres to the airport building.

#### **43 What serious crimes exist with regard to aviation?**

These include illegal acts of natural and legal persons whose activities are connected with the use of air space; the design, manufacture, maintenance and operation of aviation equipment; business activities in the aviation sector; service of air transportation; or aviation safety. These are punished with financial penalties. The illegal acts are as follows:

- aircraft operation without permission to fly or with overdue permission;
- violation of mandatory insurance requirements for the operators of aircraft;
- destruction of onboard and ground means to define materials and documents that may be used to discover the reasons for an aviation accident or incident;
- performance of flights in an aircraft that is not duly maintained;
- use of an aerodrome that does not correspond to the type of aircraft and flight;
- failure to submit in time or undue disclosure of information required by the SAS;
- failure to use obligatory marks and signals connected with air movement;
- passenger or cargo transportation without due licence;
- performance of flights without due allowance for route operation or violation of limits introduced for the route; and
- access of aviation personnel to professional activities without due licence or with violation of limits stated in the licence.