

Література

1. Национальная и глобальная безопасность. Терроризм в мегаполисе: оценка угроз и защищенности. / под. общ. ред. В.З. Дворкина. – М.: Феникс, 2002. – С. 12-13.
2. Гладченко В. Г. Міжнародне публічне право / В. Г. Буткевич, В. В. Мицик, О. В. Задорожний. – К.: Либідь, 2002. – 463 с.
3. Близнюков А. Г. Безопасность на воздушном и водном транспорте / А. Г. Близнюков // Право и безопасность. – 2006. – № 1. – 345 с.

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ENSURING THE RIGHTS OF PASSENGERS DURING AIR TRANSPORTATION

With the emergence of the opportunity to fly, there is a need to regulate the air relations that arise between the passengers of air transport and the company that provides such services. To this end, a number of international legal acts have been concluded and ratified, which guarantee the protection of the rights of passengers and their safe transportation.

Various socio-economic and political changes in Ukraine determine the necessity of increase of efficiency of protection of the rights of citizens and guarantees of implementation provided for in article 42 of the Constitution of the state duty to protect the rights of citizens as consumers [1].

The Constitution established the priority of human and citizen rights in the activities of the state. But in case of disputes, representatives of airlines prove the unfitness of the legislation on the protection of the rights of consumers of air transportation, thereby violating the rights of passengers. In this regard, the need to improve national legislation in the field of consumer protection, in particular in the aviation industry, has become urgent.

According to the article 98 of the Air code of Ukraine, air transportation is carried out on the basis of an agreement between the air carrier and the passenger or consignor. Each air carriage agreement and its terms and conditions shall be certified by a document of carriage issued by the air carrier or its authorized organizations (agents) [2].

Legal relations in the field of air transport also arise on the basis of article 910 of the Civil code of Ukraine. According to this article, under the contract of carriage of a passenger, one party (carrier) undertakes to transport the other party (passenger) to the destination, and in the case of baggage delivery – also to deliver the baggage to the destination and give it to the person entitled to receive the baggage, and the passenger undertakes to pay the established fare, and in the case of baggage delivery – also for its carriage. In accordance with the part 2 of the article 910 of the Civil code of Ukraine, the conclusion of the contract of carriage of passengers and baggage is confirmed by the issuance of the ticket and baggage receipt, respectively, the forms of which are set according to the transport codes (statutes) [3].

Most passengers are not aware of their rights in case of cancellation, flight delays or unforeseen situations. However, some airlines are reluctant to respond to the claims and demands of passengers. All this indicates the need to improve existing and develop new mechanisms to ensure the rights of passengers.

A citizen whose rights have been violated by the air carrier may, on the basis of the provisions of part 2 of article 104 of the Air code of Ukraine apply to the court with a civil claim to protect its violated right.

When applying to the court in accordance with part 1 of article 60 of the Civil procedure code of Ukraine, each party is obliged to prove the circumstances to which it refers as the basis of its claims and objections [2].

The issue of compensation for moral damage that may be caused to passengers is a problematic one, since neither the Air code of Ukraine, nor the Warsaw Convention, nor the Montreal Convention as special regulations regarding the Law of Ukraine “On protection of consumer rights,” nor the carrier’s rules, nor the terms of the air carriage contract provide for compensation for moral damage caused by an international air carrier.

The air carrier shall be liable for loss or damage caused during the carriage of passengers, baggage, cargo and post in accordance with the requirements and rules fixed such liability and passengers the owners of baggage and cargo are entitled to compensation in case of refusal of carriage, cancellation or long delay of flight damage or loss of baggage or cargo.

The parties to the air carriage agreement shall bear the respective duties and responsibilities. First of all, this applies to the air carrier. The air carrier shall comply with all regulations and technologies that are used during air transportation of passengers and / or baggage, cargo and post and established by the aviation rules of Ukraine. In case of

carrying out activities in Ukraine by a foreign air carrier, it must inform the authorized body for civil aviation about its rules and requirements and the requirement of the authorized body to bring its rules in accordance with the requirements of the legislation of Ukraine.

It is the responsibility of air carriers to bring to the attention of all possible consumers of such services information about the air line and flight timetable, transportation rates and conditions of service of passengers and cargo handling on the ground and in the sky. All information should appear in the automated booking systems and be available to all interested parties.

In a special way, carriers must comply with the provisions of the current legislation on the movement across the state border of Ukraine of foreigners or stateless persons without documents to enter Ukraine or with documents issued in violation of the requirements established by the legislation of Ukraine. Air transport organizations are responsible in the manner and with the exception of which are regulated by special legislation regulating this type of transportation Indicator of civilized transportation is to provide special assistance to citizens with disabilities. It is the air craft, the airport must meet the established requirements of transportation of such category of passengers.

International air transportation is becoming more and more popular every year. In this regard, there is a need for a clearly defined legal mechanism for regulating relations in the aviation sphere, respecting the rights, obligations and ensuring the responsibility of participants.

The current state of legal relations in the field of air transport requires the development and introduction of new mechanisms to ensure the rights and freedoms of passengers.

Literature

1. Конституція України від 28 червня 1996 р. № 254к/96-ВР // Відомості Верховної Ради України. – 1996. – № 30. – Ст. 141.

2. Повітряний кодекс України від 19 травня 2011 р. № 3393-VI // Відомості Верховної Ради України. – 2011. – № 48-49. – Ст. 536.

3. Цивільний кодекс України від 16 січня 2003 р № 435-IV // Відомості Верховної Ради України. – 2003. – №№ 40-44. – Ст. 356.