



FORTY-SECOND PLENARY (TRIENNIAL) SESSION

(Strasbourg, 9-10 July 2024)

Agenda item 4: Presentation of the Focal Point reports

REPORT ON ECAC ACTIVITIES ON LEGAL MATTERS

(Presented by Patricia Reverdy, Executive Secretary of ECAC)

SUMMARY

This paper presents the report of activities in 2022-2024 on legal matters, and in particular the activities of the Legal Task Force.

ACTION TO BE TAKEN

The Plenary Session is invited to note the main activities on legal matters for the period 2022-2024.

Introduction

1. ECAC activities in the legal field mainly support the various activities of the organisation, and their aim is to promote expertise on legal issues in ECAC Member States, to strengthen understanding of legal issues addressed in international fora, and to provide advice on legal matters relevant to the work of ECAC or of interest to ECAC Member States. The ECAC Legal Task Force (LEGTF) is instrumental in the delivery of activities in this field, and of the 2022-2024 work programme on legal matters, approved by Directors General during the last Triennial Session (ECAC/39, 12 July 2021).

2. In addition, the task group on ECAC legal status (LEGS) has been supporting ECAC's work on the legal status of ECAC, and the drafting of an agreement for the Secretariat of the Conference and associated documents.

Organisation

3. Following the departure of Mr Frankie Deckers (Belgium) as chair of the ECAC Legal Task Force, due to leaving his position at the Belgian civil aviation administration in March 2022, a call for nominations to appoint a new chair was launched on 21 March 2022. Consistent with the provisions of the ECAC Constitution, Directors General formally appointed Ms Machteld Cambridge (Netherlands) as chair of the Legal Task Force on 20 May 2022 through written consultation for a first mandate of three years.

4. Subsequently, Ms Laura Milton (United Kingdom) was appointed as deputy chair by Directors General through a written consultation completed on 11 August 2022, for a first mandate of three years. Following the departure of Ms Milton as deputy chair, due to her leaving her position at the UK Civil Aviation Authority in January 2023, a call for nominations to appoint a new deputy chair was launched on 14 December 2022. Consistent with the provisions of the ECAC Constitution, Directors General decided to formally appoint Ms Ann-Kristin Hanssen (Norway), as deputy chair of the Legal Task Force on 12 May 2023 through written consultation for a first mandate of three years.

5. The task group on ECAC legal status (LEGS) has continued to be chaired by the Executive Secretary of ECAC, and reports directly to the Coordinating Committee and to Directors General.

Implementation of the 2022-2024 work programme

6. The 2022-2024 work programme on legal matters includes the following key objectives:

- With the aim to promote expertise on legal issues in ECAC Member States, to support understanding on legal aspects of topics of common interest to aviation community within ECAC.
- With the aim to strengthen understanding of legal issues addressed in international fora, to promote Pan-European priorities and positions in international meetings (such as the ICAO Legal Committee and its working groups).

7. Consistent with the 2022-2024 work programme on legal matters, the ECAC Legal Task Force has focused its efforts on completing the assigned objectives and achieving important results, which has supported ECAC activities in other fields of civil aviation. Inter alia, the Task Force contributed significantly to the following activities:

- Preparing contributions to the 38th and 39th meetings of the ICAO Legal Committee (LC/38, 22–25 March 2022, LC/39, 25–28 June 2024) through coordinating meetings and sharing briefing documents.
- Sharing information about on-going developments in ICAO Legal Committee working groups such as: the Working Group for the Review of the ICAO Rules for the Settlement of Disputes; the Research subgroup on legal issues (RSGLEG) of the Secretariat Study Group on Cyber (SSGC); the ICAO Article 12 Task Force, which was dealing with issues of the scope of this *Rules of the Air* article and the relation to several Annexes of the Chicago Convention, as well as jurisdictional issues of flights over high seas and delegated airspace; and the ICAO Secretariat Study Group established to study legal issues related to pilotless aircraft (SSG-LIPA). Several members of the task force participate in or chair these groups and report on their discussions during task force meetings.
- Preparing for the ICAO Assembly (27 September–7 October 2022): European priorities and objectives were discussed and agreed. While it was decided that there was no need to prepare a European working paper, the task force analysed all working papers presented to the Legal Commission and reviewed other relevant working papers from a legal perspective.
- Monitoring the status of ratification of international legal instruments (e.g. Montreal Protocol to the Tokyo Convention) and making information available on the dedicated website. Members also promoted the ratification of these instruments in appropriate fora.
- Supporting ECAC's developments as an organisation, for example: by contributing to the task group on ECAC's legal status (LEGS); by reviewing the draft cooperation arrangement between ECAC and Airports Council International for the implementation of peer reviews under the CASE II Project; by organising a survey on confidentiality and public sharing of information policies in ECAC Member States; and by addressing questions regarding the confidentiality of the Summary of Discussions of meetings of ECAC Directors General and other relevant meetings.
- Promoting the sharing of information among members of the Task Force, as the group is considered to be a valuable network in the day-to-day activity of aviation lawyers through e.g. the creation of an (question driven) Information sharing database.
- Supporting ECAC Directors General, including on the proposal for ECAC to join the ICAO Assistance Capacity-building and Training for Sustainable Aviation Fuels (ACT-SAF) programme; in discussing procedures for contributions in arrears; and in reviewing provisions for archiving ECAC papers.
- Taking part in the second Civil Aviation Legal Advisers Forum (CALAF/2, 21–23 February 2023), moderating the outbreak session of ECAC delegates and following CALAF 2, sharing information and discussions on suggested topics and other ideas on planning for the third forum (CALAF/3) in November 2024 in London.

ECAC legal status

8. Consistent with decisions taken by Directors General regarding the legal status of ECAC in August 2022, LEGS has been tasked with elaborating proposals for a draft Convention for the Secretariat of the Conference and consequential draft

amendments to the ECAC Constitution, for consideration by the Coordinating Committee and ECAC Directors General.

9. In September 2023, the 41st ECAC Plenary Session adopted the Resolution on the organisation and convening of a Diplomatic Conference at a date to be set in December 2023 for the adoption of a legal framework for the Secretariat of the European Civil Aviation Conference, the "Convention on the Secretariat of the European Civil Aviation Conference". The Diplomatic Conference is now scheduled to take place in the first part of 2025.

10. LEGS is continuing its work for the preparation of documentation in advance of the Diplomatic Conference, and preparatory meetings are organised in 2024 to prepare for this Conference.

Ratification of international instruments

11. The Protocol of Amendment to Article 50(a) provides for an increase in the size of the Council from thirty-six (36) members to forty (40), while the Protocol of Amendment to Article 56 provides for an increase in the membership of the Air Navigation Commission from nineteen (19) to twenty-one (21). By Assembly Resolutions A39-5 and A39-7, respectively, and underlined by Resolution A40-28, the ICAO Assembly recommended to all States to ratify most urgently these Protocols.

12. In this regard, ECAC regularly monitors the status of ratification of the two Protocols amending Article 50 (a) and Article 56 of the Convention on International Civil Aviation. To date, forty-one ECAC Member States have ratified these Protocols.

13. The Legal Task Force also offered support to ECAC and regional sister organisations' Member States to complete the ratification process of international instruments and in particular the two Protocols: legal experts from the Task Force and directly involved in this topic, would be able to share their experience with their counterparts in other States.

Action to be taken

14. The Plenary Session is invited to note the main activities on legal matters for the period 2022-2024