

## THE LEGAL SYSTEM OF THE AIRCRAFT IN SAUDILAW AND INTERNATIONAL CONVENTIONS

*Zubeida Abdul Hadi*

*Research Scholar, Prince Sultan University, Riyadh, Saudi Arabia*

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**Received: 08 Oct 2018**

**Accepted: 20 Oct 2018**

**Published: 09 Oct 2018**

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### **ABSTRACT**

*The aim of this research is to determine the legal system of aircraft in the aviation law of Saudi Arabia in comparison to international conventions. The subject was dealt with by presenting, analysing and interpreting the legal rules of the aircraft and the procedures it takes and the types of air transport by following Comparative analytical descriptive approach. One of the main findings of the study is that the Saudi Civil Aviation Law is in line with the legal rules of the international conventions related to the legal organization of the sale, the executive reservation and the precautionary reservation on the plane.*

**KEYWORDS:** *Ship Contaminants, Regional Waters, Saudi Arabia*

### **INTRODUCTION**

#### **The Study Problem**

The problem of the study is confined to the following main question: What are the legal rules of the aircraft in Saudi law

#### **The Study Questions**

- What is meant by air transport?
- What are air transport documents?
- What are the rules for selling, renting and booking aircraft?
- What are the crimes and irregularities in aircraft

#### **The Importance of the Study:**

The study concerned the means of air transport and the most important legal rules regulating it

The study is subject to the legal dispositions of aircraft for sale, rent, execution and reservation.

The study is of importance to researchers for the lack of Arab research which dealt with the legal rules of the aircraft in Saudi Arabia

## RESEARCH METHODOLOGY

The research followed the comparative descriptive, analytical method. It is a descriptive study because it describes the subject of "The legal system of the aircraft in Saudi Arabia and the Arab legislations, which is an analytical method because it is based on the interpretation of the legal rules governing the plane and the crimes that fall upon it. It is a comparative approach because it compares the Saudi Civil Aviation System 1431 and the international conventions.

**Study Sections:** The introduction, the problem of the research, objectives of the research and the importance of research and methodology. The research includes two topics: The first topic is legal and technical determination for air transport, which is divided into two requirements: First requirement: the concept of air transport and the second requirement was entitled: the types of air transport and documents. The second topic is legal actions on the plane, it is divided into: the first requirement: the contract of sale of aircraft, the second requirement: executive reservation and reservation on aircraft. The paper ends with findings, recommendations and a list of sources.

The first topic

Legal determination of air transport of aircraft

First requirement

Concept of air transport

Saudi Arabia joined on 15/10/2003 to the Montreal Convention for the Unification of Certain Provisions of Air Transport known as the Montreal Convention of 1999, which entered into force on 4/11/2003 less than one month after the Kingdom's accession to it. The first paragraph of Article 1 of the Montreal Convention states that this Convention shall apply to all international transfers of persons, baggage or goods carried out by a paid aircraft and shall also apply to free carriage by air, operated by an airline<sup>(1)</sup>. The conditions for air transport are as follows:

**First:** There should be a transfer contract. Definition of a contract for international carriage of goods by air: May be defined as "the international carriage of persons, baggage or goods carried out by a chartered aircraft, as long as the departure points and the final destination, in accordance with the contract between the parties, are either in the territory of two States Parties or in the territory of one State Party.

It is also known as the obligation of the carrier to transport the goods from one place to another known location by air plane within a specified period of time against a known fee. The air transport contract is considered to be a binding contract for both sides, it must have the general objective elements of contracts.

**The Air Carrier:** In accordance with Article (1/32) of the Saudi Aviation Law, is the natural or moral person who displays or operates airlines for the carriage of passengers, mail and goods or any of them.

**Second:** International air transport shall be in accordance with the provisions of the Convention that the transport was carried out in the air at all stages, whether transporting passengers or luggage or goods.

The Saudi regime defines international air transport under the name of the international airline in paragraph 1 of Article 1 of the Civil Aviation Regulations of 1426 "Any air route that passes through the airspace of more than one

<sup>(1)</sup>Dr. Adly Amir Khaled Contract of air transport in the light of the new Civil Aviation Law and the new jurisprudents - p23

country.

**Third:** The contract of air transport is paid. This is stated in the Montreal Convention in the first paragraph of its first article by stating that the present Convention applies to all international transfers of persons, baggage or goods on board a chartered aircraft

The second requirement

Air transport and documents

Types of air transport of aircraft: Transport is divided according to the air transport agreements and the Saudi law to several types that may be public, private, regular or irregular in return for free or internally or internationally (1)

- Internal air transport as defined in Article 1/31 of the Saudi Civil Aviation System is any airline operating entirely within the territory of the State
- The regular air route in accordance with Article Clause of the Civil Aviation Law of the Kingdom as: an open air line for public use and operating according to an advertised schedule, Or regularly or clearly repeat and form a series of regular trips easy to observe
- Flights of non-scheduled air (freight) In accordance with Article 5 of the Chicago Convention, flights operated between two designated airports are intended to be based on a special agreement between the shippers and the airline to charter or lease the aircraft for the carriage of specified quantities of goods on the dates agreed between them.
- International Air Transport The Montreal Convention, 1999, is defined in Article 1 any transfer in which the departure and final destination points in accordance with the contract concluded between the parties are either in the territory of two States Parties or in the territory of one State Party whether there has been no interruption of transport or To another, if there is an agreed point within the territory of another country. International transport is defined in Article 1/30 of the Saudi Civil Aviation System as any air route that passes through the airspace of more than one country.
- **Sequential Transport:** The Montreal Convention defined it as the transfer carried out by a number of different successive carriers, a carrier that participates with other carriers in the performance of a single airlift, whether one or several contracts of carriage have been concluded(1)

**Transport by Several Means:** The Montreal Convention is defined as "carriage, part of which is by air and another part by any other means of transport. The Parties may agree to apply the Montreal Convention to the Air Transport Agreement only (2)

### Air Transport Documents

Types of transport documents in the Montreal Convention 1999

<sup>(1)</sup>Dr.. Mohammed Farid Al-Areeni: Air Law (Internal and International Air Transport), House of Publications Association - Alexandria - 2002 – p65

Dr..Izz al-Din al-Tayeb Adam: lectures in the air law Faculty of Law - University of the Nile, p101<sup>(1)</sup>

<sup>(2)</sup>Article 38 of the Montreal Convention for the Unification of Certain Provisions of the Air Transport Contract1999

**First:** Passenger Transport Documents: In accordance with the Montreal Convention 1999, the carrier shall, in case of carriage of passengers, deliver an individual document to each passenger or a collective document in the case of passengers, provided that the following documents are included in the document:(1):

- Statement of departure and final destination points.
- The statement of at least one stop point if the departure and final destination points are located in the territory of one State Party if there is a stop or agreed stopping point located in the territory of another State.

**Second:** Baggage: The carrier is obliged to hand over the passengers' identification card for each piece of registered luggage (2)

Thirdly, the passenger shall give written notice that in the cases to which this Agreement applies, it shall govern and may limit the liability of carriers for death or injury, damage, loss or misappropriation of baggage, and delay .(3)

**Fourth:** Air Freight Document: The Montreal Convention of 1999, in case of the carriage of goods, requires the delivery of an air cargo document The Convention allowed the replacement of the delivery of the air way-bill by any other alternative means that could include information on the goods to be transported. And in the case of the use of such alternative means of the bill of lading, The carrier shall deliver to the consignor of the goods, at the request of the latter, a receipt of goods allowing identification of the consignment and access to information recorded by such other means (4)The Montreal Convention of 1999 requires that the bill of lading or the delivery of goods contain specific data represented in the following :(5)

Statement of departure points for goods or consignment and the final destination. A statement of at least one stop point if the departure and final destination points are located in the territory of one State Party if there is a stop or agreed stopping point located in the territory of another State

A statement of the weight of the consignment of goods.

Authenticity of transport documents in proof:

The proof is to establish evidence before the courts in the manner specified by the law on the existence of a legal fact arising from its effects(1)

Satisfaction is the basis of the conclusion of the contract of air transport, but the treaties stipulated emptying them in a certain form. We find different legal systems in determining the principles of proof, Some regimes adopted the principle of freedom of proof while others adopted the principle of limited proof. Some regimes adopted the principle of freedom of proof while others adopted the principle of limited proof. The Warsaw Convention and the Montreal Convention of 1999 considered that the air cargo document or the delivery of goods is evidence of the conclusion of the contract and the receipt

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<sup>(1)</sup>In accordance with Article 3 of the Montreal Convention, 1999

<sup>(2)</sup>Article 3/3 of the Montreal Convention, 1999

<sup>(3)</sup>Article 3/4 of the Convention, Montreal, 1999

<sup>(4)</sup>Article 4/2 of the Montreal Convention, 1999

<sup>(1)</sup>Article 5 of the Convention Montreal, 1999

<sup>(2)</sup>Article 11/1 of the Montreal Convention, 1999

of the goods from the air carrier on the conditions of carriage mentioned therein, and the latter is not conclusive, the contrary may be proved by the passenger or the consignor of the goods (2)The data recorded in the air shipment document or in the delivery of goods on the weight, dimensions and packaging of the goods, as well as data on the number of packages, shall be evidence to the carrier that he has received the goods unless otherwise proven, Data on the quantity, volume and condition of the goods shall not be valid against the carrier, except to the extent that the carrier has verified them in the presence of the consignor, This is evidenced by the air freight document or the goods receipt, or to the extent that the data relate to the apparent condition of the goods. "The carrier is responsible for the data that he or she has on the passenger, the goods or the luggage. He is responsible for compensating the sender for all damages caused to him or any other person if the data was entered by him or his representative in an incorrect, incorrect or incomplete manner in the delivery of the goods or In the shipping document or travel documents for the passenger (1)However, in accordance with the Montreal Convention, the carrier does not issue documents for the carriage of a passenger or luggage which does not affect the existence or validity of the contract of carriage. The carrier shall not be relieved of its responsibility towards the passenger or luggage. However, the carrier remains subject to the rules of this Convention(2)

## THE SECOND TOPIC

### Legal Actions on the Aircraft

Aircraft in Saudi law of material movables لا.(3)Saudi law has set special provisions for it In respect of the right to sell, rent, and foreclosure or attachment procedures, whether executive or precautionary,These provisions shall apply to all civil aircraft, whatever their nationality, if they exist in the territory of the Kingdom, as well as on Saudi civil aircraft in any place whatsoever. With the exception of state aircraft of those provisions (4)

Legal The actions on all parts of the aircraft may be from a structure, engines, fans or radios, and all parts intended for the service of the aircraft whether fixed or separated from it (1)The spare parts of the aircraft are stored for use when needed. The actions on airplanes are as follows(2).a Aircraft ownership rights. Which can be acquired by sale, gift, inheritance or willow.B. The right of the aircraft holder to acquire ownership of the purchase. C. The right to use the aircraft in accordance with the terms of an agreed lease.

D.The right of the official mortgage and any similar right is agreed to be established on the plane to meet debt.

Registration frights Article 57 of the Saudi Civil Aviation Regulations regulates the registration of rights on aircraft, as it separates foreign aircraft and national aircraft as follo1The rights to foreign aircraft shall be recorded in accordance with the applicable laws to which such aircraft are subject to the nationality of their registration.2The Authority shall register the rights on aircraft with Saudi nationality on the pages of the registration of such aircraft in the register if these rights have been established in accordance with the provisions in force in the Kingdom.e (3) effects of restriction of

<sup>(1)</sup>Article 10 of the Convention Montagrrial 1999

<sup>(2)</sup>Article 3/5 of the Convention Montreal, 1999

<sup>(3)</sup>Article 59 of the Civil Aviation Law of 1426

<sup>(4)</sup>Article 59 of the Civil Aviation Law of 1426

<sup>(1)</sup>Article 55 of the Saudi Civil Aviation Law

<sup>(2)</sup>Article 56/1 of the Saudi Civil Aviation Law

<sup>(3)</sup>Article 57 of the Saudi Civil Aviation Law

rights:

**The Saudi Civil Aviation Regulations Set Out Special Provisions for Aircraft Operations: (4)**

Foreign civil aircraft shall be subject, in all matters relating to legal acts, to the sale, purchase, rent, mortgage and the consequences of the registration of such acts in the face of third parties, to the laws and regulations subject to the foreign civil aircraft.

Legal actions shall not be on civil aircraft Saudi Arabia shall be effective in the face of third parties, except from the date of its registration in the Register or the date of deposit of its establishment certificate in the files of these aircraft located at the Saudi Civil Aviation Authority- .Any interested party may request the Saudi Civil Aviation Authority to provide him with correspondence, photocopies or certified extracts, which must be identical, and be an argument for what is stated in the register or in the files referred to, in order for the evidence to be reversed.

Do these rights apply to all Saudi aircraft? The rights are placed on national civil aircraft. International agreements and the national aviation system permit the Kingdom to conduct any lawful conduct on any national aircraft to any person by sale, lease, mortgage, or other lawful or legal action. Such conduct shall not apply to third parties unless it is registered in the register(1)

First requirement

Sale of national aircraft

The sale of the most important reasons for winning the ownership of civil aircraft, and the Saudi Civil Aviation Law, between the voluntary sale and forced sale of aircraft as follows

**Voluntary Sale of Aircraft:**

Contract for the sale of aircraft from formal contracts, which are required to be held beside the consent of the contractors to be available form specified by the system The substantive terms of the sale contract must be met And that the seller is owner or commissioner of the sale either for the buyer may be national or foreign and for the latter must be achieved specific conditions,, And formal conditions only transfer ownership of the national aircraft under an official document And shall not have any effect against third parties except after being registered in the register, And therefore the contract of sale shall not be effective between its parties or against third parties unless it is registered in the National Register of Aircraft. Otherwise, the general procedures applied to the sale in general shall apply to the aircraft (1)Any registration or registration of aircraft from the Register may not be transferred to the registry of another State, or vice versa only after the rights on the aircraft have been settled against debts and mortgages or after the approval of the owners of such rights(2)B - forced sale of aircraft: The aircraft of the salable funds, which can be signed and sold in accordance with a judgment issued against the debtor, And the executive sale is a measure carried out by the public authority through the judiciary and its supervision At the request of a court order, which meets the conditions that allow its implementation Accordingly, no forced sale of the aircraft shall be made unless the priority rights over the rights of the secured creditor

<sup>(4)</sup>Article 58 of the Saudi Civil Aviation Law

<sup>(1)</sup>Article 60 of the Saudi Civil Aviation Law

<sup>(1)</sup>Article 59 of the Saudi Civil Aviation Regulations

<sup>(2)</sup>Article 67 of the Saudi Civil Aviation Regulations

have been paid from the sale price or may have been secured by the buyer (4)Otherwise, the compulsory sale procedures shall be subject to the general rules of the Implementation Law of 1433 AH,A declaration must be made by auction no later than thirty days and not less than fifteen days before the date specified for the auction .The enforcement judge may order the publication of this advertisement in one or more daily newspapers. The sale begins with the auction in the presence of the execution officer(4)

Sales inclusions This sale includes spare parts that are reserved for them and is transferred to the new buyer How to distribute money from auction

Excellent debt is provided on all rights and other debts arising on aircraft which are as follows (1)

- Rewards for saving the aircraft.
- Extraordinary expenses required to maintain the aircraft Provided that such excellent debt is combined with the right of tracing in accordance with the law of the State in whose territory the rescue or maintenance work took place.
- Fees payable under regulations and regulations.

In accordance with Article 61 of the Saudi Civil Aviation Law, the National Civil Aviation Authority shall deposit such excellent debts on aircraft registered in the Register at the request of the creditor If such application is submitted within the next three months to the completion of the work that was the cause of its creation.

Second: The right to lease planes:Known The aircraft lease contract in the Saudi Civil Aviation Law is a contract under which the less or is obliged to enable the lessee to use his plane with the commanding body, or without it for one or more flights or air work, or for a specified period. National Civil Aviation Regulations The duties of the less or of the aircraft and its lessee and the terms of the contract(2)The less or shall have the obligation to enable the lessee to benefit from the aircraft and shall hand over an airborne aircraft. The less or shall be liable for damage caused by faults of the aircraft liable for Unless he proves that he is unaware of the existence of the aircraft and the lessee is obliged to use the aircraft in the preparation of the aircraft, while maintaining the aircraft.(1)

## **The Second requirement**

### **Booking on Aircraft**

#### **Reservation and Reservation**

Reservation Article 2 of the Rome Convention for the Reserve of Aircraft A reserve shall mean any act, whatever its name is, whereby an aircraft shall be suspended, sponsored by a private interest through the agents of the judiciary or the members of the public administration, either in favor of a creditor or owner or holder of an inalienable right that burdens the aircraft without being able to Obtained in advance by the ordinary way or to an equivalent executive bond. And was defined by Article 71 of the Saudi Civil Aviation Law 1426Any act of any kind under which the aircraft is

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<sup>(3)</sup>Article 63/3 of the Saudi Civil Aviation Regulations

<sup>(4)</sup>Article 50 of the Saudi Implementation Law for the year 1433

<sup>(1)</sup>Article 61 of the Saudi Civil Aviation Law

<sup>(1)</sup>Dr..AkramYamlaki: Air Law (Comparative Study) Dar Al-Thaqafa Library for Publishing and Distribution - Jordan - 1997, p. 80 p. 81

suspended shall be taken care of in a special interest by the judiciary, Or the competent authorities in favor of the creditor, the owner or the owner of the in-kind right in the aircraft. The Authority shall have the right to suspend the aircraft in the event of failure to pay the fees due in the Kingdom, To determine the applicable law on aircraft booking procedures we differentiate between:

-Foreign aircraft located in the territory of the Kingdom and registered in another country to be applied by the Rome Convention for the reservation of aircraft on the aircraft in 1933.

Saudi aircraft located on the territory of a State not subject to the provisions of the Rome Convention shall be subject to the domestic legislation of that State unless there is a bilateral or regional agreement(1).

-Foreign national aircraft registered in non-signatories to the Rome Convention of 1933 are subject to the general rules of international jurisdiction

Exceptions to reservation: Saudi law is in full agreement with the Rome Convention, with the exception of exempting aircraft from pre-emptive detention in accordance with article 73 of the regime corresponding to article III of the Convention: a reservation does not sign the following. A. Aircraft allocated for the service of the State, except for those allocated for the service of trade .B. The aircraft are actually used absolutely on a regular air route, as are the backup aircraft that are indispensable. G. Any other aircraft intended for the transport of persons or funds in return for the departure or departure of such transport except in the case where a debt arises because of the flight that will be made by the aircraft or originated through the flight

Appointment of guard in the case of provisional reservation: . If a reservation is placed on the aircraft, a guard may not appoint a guardian other than its owner or operator if one of them is the debtor or the person acting in their place. The arrest does not preclude the guard from operating the aircraft under the decision of the party that made the booking (1)

### **Reservation Restriction:**

The Civil Aviation Authority of the Kingdom shall register the reservation of the national civil aircraft in the register at the request of the creditor after verifying the availability of the documents supporting his application((2)

### **Compensation for Provisional Detention**

The barrier shall be liable in accordance with the provisions and regulations applicable in the Kingdom for damage to the owner or operator of the aircraft If the seizure of the aircraft is signed in other than the cases in which the arrest may be made, Or if sufficient bail has been refused by the debtor to prevent the arrest or lifting of the aircraft, or if the reservation has been made for no legitimate reason (1)

### **Executive Reservation**

An executive reservation on an aircraft for performance of a performing debt shall be made only after the general disposition of all other receivables of the debtor located in the Kingdom and proved insufficient to satisfy the debts of the

<sup>(2)</sup>Dr..Ashour Abdel-Gawad: A brief in the air law Dar al-Nahda al-Arabiya, Cairo, 1992. P. 70

<sup>(1)</sup>Article 75 of the Saudi Civil Aviation Regulations

<sup>(2)</sup>Article 76 of the Saudi National Civil Order

<sup>(1)</sup>Article 78 of the Civil Aviation Code of Saudi Arabia



creditor or creditors<sup>(2)</sup>

### The Third Topic

#### Crimes and Acts Committed Against Aircraft

The provisions of the relevant international conventions approved by the Kingdom and the provisions of the regulations in force in the Kingdom shall apply to offenses and acts committed against the security and safety of civil aviation and aircraft <sup>(3)</sup>The international conventions that regulate the crimes and acts on board are:

- The 1993 Tokyo Convention on Offenses and Offenses Committed on Board Aircraft
- The Hague Convention for the Suppression of Unlawful Seizure of Aircraft.
- The Montreal Convention of 2009 on Unlawful Acts related to the Safety and Security of Civil Aviation.
- Model legislation on certain offenses committed on board civil aircraft.<sup>(2)</sup>

**First:** Tokyo Convention on Certain Offenses and Other Acts Committed on Board Aircraft signed in Tokyo, 14 September 1964Is the first convention to establish rules for crimes on board aircraft and contains 26 articles in accordance with Article I of the Convention apply the Convention on the following crimes and acts:

- Offenses committed in contravention of the Penal Code; or national criminal law whether it is committed to persons, property or aircraft as the case may be.
- Acts endangering the safety of the aircraft or passengers or their property.
- acts that violate the law and discipline on board the aircraft.
- acts that violate the law and discipline on board the aircraft;
- Acts or offenses committed on board the aircraft in the event of its flight in any Contracting State or in the event of its flight on the high seas or in any other area outside the territory of any State
- Illegal seizure of the aircraft as hijacking the aircraft The Contracting State may take the necessary steps to restore the aircraft and the Tokyo Convention excludes certain crimes and acts from the scope of their application: Which:-- Offenses on board the aircraft in the territory of the airport of a Contracting State if a person on board an aircraft in the event of a flight of violence or threatened to use it unlawfully to obstruct, seize or control the aircraft, or if it is about to do so Such act shall be governed by the applicable law of the State of the Airport .(1)
- Political crimes or crimes based on racial or religious discrimination.-.(1)Crimes or acts on board military aircraft, customs aircraft and police aircraft (2)

#### Applicable Law under the Tokyo Treaty of 1963:

<sup>(2)</sup>Article 79 of the Saudi Civil Aviation Law

<sup>(3)</sup>Article 153 of the Saudi Civil Aviation Law

<sup>(4)</sup>Decisions in force on the General University of the Civil Aviation Organization, Part V, Adoption of National Legislation on Certain Offenses Committed on Civil Aircraft (Riot or Uncontrolled Passengers October 2010, pp. 1-v)

<sup>(1)</sup>Article 11 of the Tokiwa Convention, 1963

<sup>(1)</sup>Article 2 of the Tokiwa Convention, 1963

<sup>(2)</sup>Article 1/4 of the Tokoya Convention, 1963

The flag State shall have jurisdiction over the acts and crimes in the aircraft in accordance with article III of the Convention. However, article IV of the Convention excluded certain cases from the scope of application of the Tokyo Convention where each Contracting State may exercise the right to intervene in order to exercise its criminal jurisdiction

**Second:** Hague Convention on the Suppression of Unlawful Seizure of Aircraft The Convention was adopted by the International Air Law Congress in The Hague on 16 December 1970. It entered into force on 14 October 1971, in relation to the legislative shortcomings of the Tokiwa Convention. States sought to develop a convention to deal with what Tokiwa, The Hague Convention criminalized abduction and unlawful seizure of aircraft. The Convention defined the abduction in Article 1 "Anyone who is on board the aircraft is guilty of an offense if he unlawfully, violently or threatens to seize or control the aircraft or If he commits to commit any of these acts or if he participates with any other person who has committed or attempted to commit any of these acts, And adopted several measures to deal with cases of kidnapping that threatened the safety of air transport and committed all its member states to a number of commitments, including: (3)

- Organizing or threatening the crime of kidnapping using force or by any other means. With strict penalties
- Arrest, interrogate and transfer the hijacker to the competent security and judicial authorities to complete the investigation procedures and to determine the punishment in accordance with its criminal law.
- Applying its judicial system to the crime of hijacking or acts of violence committed on board.
- The hijacker shall be extradited to his country if he decides not to apply his judicial system to him.
- Re-control the plane to the pilot and make all possible efforts for all aboard to facilitate the continuation of their flight as soon as possible

Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971.The 1971 Montreal Convention dealt with acts that were outside the scope of the hijackings and prohibited the destruction of aircraft or the placement of an odometer that would destroy the aircraft or endanger the safety of life, property and aircraft. The obligations of the Montreal Convention on Member States are very similar to those of the Hague Convention, but they have been extended to the scope of their application. The aircraft is considered to be in service from the moment it begins. Where ground personnel are prepared to make a certain journey until the expiration of 24 hours per trip,To include the period leading up to the flight phase, which begins from the closure of the doors of the aircraft to take off and even open after landing because of the possibility of the plane's exposure to any risks in this period(1)

Applicable law of the Montreal Convention:Each Contracting State shall have the right to take the necessary measures to determine its legislative powers with respect to criminal acts in the following cases:

- When the Offense is Committed in the Territory of that State
- When the offense is committed against or on a registered aircraft of that State.(1)
- When the aircraft against which the offense is committed falls on its territory and the alleged offender is still on

<sup>(3)</sup>Dr. Mohammed Farid Al-Areeni: Air Law (International and Domestic Air Transport, Dar Al-Mutawabat al-Jami'iyah, Alexandria, p48

<sup>(1)</sup>Dr. Mustafa Oreibi previous reference, 83

<sup>(1)</sup>Article 2 of the Montreal Convention 1971

board.

- When the offense is committed against or on board a chartered aircraft to a lessor whose address is his principal place of business, or if he has no work address, his place of residence in that State

Identification of Crimes in the Saudi Civil Aviation System 1426H:

Saudi law has agreed with the international conventions, especially the 1971 Montreal Convention, by organizing legal rules for illegal acts that affect the security of civil aviation and where it is considered a crime to initiate, commit or take part in it : (2).

**First:** Acts that occur to persons whether passengers, aircraft persons or airport personnel :that a passenger commits acts of violence against a person on board an aircraft in flight if such work would endanger the safety of the aircraft<sup>(1)</sup>.

-- The offender acts as a result of acts of violence against a person at an airport that serves civil aviation and causes the act or is likely to cause serious injury or death.

**Second:** Destruction of the plane:-

- The offender destroys an aircraft in service, or causes damage that makes it incapable of flying or is likely to endanger its safety and is at risk of flying- the perpetrator by any means place or cause the placing of an instrument or material in an aircraft in service that is likely to destroy the aircraft or cause damage to it that is unable to fly or cause damage that may endanger its safety and is at risk of aviation. Third: Acts on Airports or Air Navigation Facilities Affecting Aircraft Safety:The offender destroys, destroys, or interferes in the operation of air navigation facilities or installations if any of these acts endanger the safety of aircraft in flight

-- The offender shall seize equipment for air navigation services or any devices, machines or wires that are necessary for the safety of aviation or related thereto.

--. That the offender destroys or seriously damages the facilities and facilities of an airport serving civil aviation or aircraft not in service in which it is located or obstructs the services at the airport if such an act jeopardizes or jeopardizes the safety of the airport

**Fourth:** Acts that constitute hijacking of the aircraft:

To initiate the hijacking of the aircraft or to unlawfully take possession of the aircraft in case of flight by force or threat of use of force Or in any form of coercion, control of its leadership or involvement with another person in its abduction.

**Fifth:** Acts occur from passengers on board:Acts harmful to aviation safety are divided into two types: acts involving violence, theft, and violation of legal instructions:

**-Acts Involving Violence:**

An assault, intimidation, physical threat or speech against a member of the crew of the aircraft, which affects the

<sup>(2)</sup>Articles 154-155 of the Saudi Civil Aviation Law, 1426H

performance of the person's duties or reduces his or her ability to perform such tasks.

-Physical violence against a person, assault, harassment or sexual harassment against a member of the crew or passengers of the aircraft.

Assault, intimidation or threats, physically or in speech against another person .

-Intentionally causing damage or destruction of property.

- The perpetrator of a crime, each of the people stealing any property of the aircraft or the property of persons on board.

- Acts that violate the instructions and legal orders of the aircraft, such as refusal to follow the legal instructions issued by the pilot or a member of the crew on his behalf for the purpose of securing the safety of the aircraft or any person or property on board or for the purpose of maintaining order and discipline on board

-Do not smoke, smoke in the toilet, or elsewhere

-Tampering with smoke detectors or other safety devices on board

-Play any portable electronic devices when prohibited.

-Refuse to sit in the seat or refuse to tie the belt

Reporting false information.

To report information known to be incorrect and thus endanger the safety of the aircraft. Powers of the pilot and crew

The civil aviation system shall grant the pilot of the aircraft the power to take any person who commits a crime that is harmful to the safety of the aircraft, life or property to take such measures as are necessary and protective (1) ,

Powers and duties of the authorities In the event of an offense, the competent authorities of the Kingdom shall take the following measures (2)

- -Re-control the aircraft for its commander or maintain control over it.
- -The return of the plane that landed in the Kingdom and the cargo on board to persons legally entitled to it, Allowing passengers and crew to continue their journey as quickly as possible.
- -Downloading the accused The competent authorities in the Kingdom shall permit the pilot of the aircraft to remove or extradite any person.

The Criminal Courts of the Kingdom shall have jurisdiction over all offenses which are in violation of the provisions of the Saudi Civil Aviation Law or its regulations or decisions or directives issued therein, if committed in the territory of the Kingdom or on board aircraft registered in the Kingdom or aboard aircraft operated by a Saudi over the high seas or places other than Subject to the authority of any State.

<sup>(1)</sup>Article 157 of the Civil Aviation Law

<sup>(2)</sup>Articles 158-159 of the Civil Aviation Law

The fourth topic

Aircraft accident

Aircraft accident: Defined by the World Civil Aviation Organization in Annex XIII as: "An incident related to the operation of the aircraft, between the moment that any person ascends the aircraft with the intention of traveling, The moment when all the passengers leave this plane, And one or more persons have been killed or seriously injured or whose aircraft has sustained permanent or structural damage or whose aircraft is missing or is inaccessible "

Article 1 of the Sudanese Civil Aviation System 2010 defines an aviation incident as any incident related to the operation of the aircraft and is between the time that any person ascends to the aircraft with the intention of flying until the time when all persons leave the aircraft and one or both of the following occur: The death or serious injury of any person as a result of being on the plane or having a direct contact with him or anything else fixed therein. The plane was seriously injured.

Article 40 paragraph 1, of the Saudi Civil Aviation Law defines it as any situation or circumstance that could lead to an accident or incident.

Article 38, paragraph 1, of the UAE Civil Aviation Regulations defined the accident as any incident related to the operation of the aircraft between the time that any person ascends to the aircraft with the intention of flying until the time all persons leave the aircraft and results in one of the results The following: Any person has been seriously injured or died as a result of being on the plane or having a direct contact with it or any part thereof or as a result of being exposed to the exhaust of the jet. The aircraft is seriously injured. Loss of or inability to access the aircraft.

The International Civil Aviation Organization (ICAO) was interested in developing a global plan to improve civil aviation safety and reduce accidents. In Annex A of the Global Plan of Safety, which urged Contracting States to support the objectives of the Global Aviation Safety Plan :(1)

- Implementation of the State Safety Program
- Expeditionary implementation of aviation safety management systems throughout the aviation industry to complement the current regulatory framework;
- The exchange of intelligence information for operational safety among States and relevant aviation stakeholders;
- Ensure that the public of travelers has access to easy-to-understand, safety-related information to enable them to make informed decisions.
- Create an environment in which reporting and information exchange are encouraged and facilitated, and timely preventive actions are taken when gaps are reported.

The Global Plan for Aviation Safety included standards for Contracting States, including Saudi Arabia, to reduce civil aviation accidents :(2)

- To monitor air safety and to work towards the implementation of the objectives of the Global Aviation Safety Plan

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<sup>(1)</sup>Decisions in force on the General University of the Civil Aviation Organization October 2010 - 30

<sup>(2)</sup>Decisions in force on the General University of the Civil Aviation Organization October 2010 - p. 31

- Taking remedial measures to address weaknesses in aviation security, airport security and the like.
- Air safety control in aircraft from the checks and papers of the validity of the flight aircraft and their full compliance with periodic maintenance with the verification of the validity of aircraft entering over its territory
- Exchange of safety information between Contracting States.
- Develop aviation safety guidelines to minimize aviation risks. In accordance with the Chicago Convention of 1944. In the event of an accident of an aircraft of a Contracting State in the territory of another Contracting State resulting in death, serious injury or significant technical damage to the aircraft or air navigation facilities equipment, the State in which the incident occurred shall conduct an investigation of its circumstances in accordance with the procedures recommended by the International Civil Aviation Organization Which are permitted by state regulations. The State in which the aircraft is registered must have the opportunity to appoint observers to attend the investigation and the reporting State shall report its report and results to the State of registration of the aircraft .(1)

#### Accident Investigation:

The Saudia Civil Aviation Law specified That the investigation of aviation accidents Is carried out through an independent specialized department And shall have the jurisdiction to consider all incidents and crimes occurring in the following cases : (2)

If the accident occurred to any civil aircraft in the territory of the Kingdom of Saudi Arabia.

If the accident occurred to any national aircraft outside the territory of the Kingdom of Saudi Arabia.

If the accident occurred to an aircraft operated by persons with Saudi or UAE nationality if the incident took place in the high seas territory or on territory not under the sovereignty of a state.

If the incident occurred to any civilian aircraft in the territory of another State and the investigation office was requested to assist in conducting the investigation at the request of the competent authorities of that State, provided that that State bore all the costs and expenses necessary for such investigation.(1)The representative of the State in which the aircraft is registered and the State in which the aircraft was manufactured may be allowed to attend the presence of the observer in the presence of an observer and may consult with any technical advisers

#### Liability for damage caused by others to the surface of the Earth caused by air accidents:

The Saudi law has been silent for reference, so we refer to the Convention on Compensation for Damage to Third Parties Resulting from Acts of Unlawful Interference, Under the second paragraph of Article II, the Montreal Convention 2009 shall apply to damage to third parties in the territory of a State Party caused by an aircraft in flight on an international flight as a result of an act of unlawful interference. This Convention also applies to damage in a non-State party The agreement obligates the operator of the aircraft to assume responsibility for compensation for damage within the scope of

<sup>(1)</sup>Article 26 of the Chicago Convention, 1944

<sup>(2)</sup>Article 107 of the Saudi Civil Aviation Law, 1426H

<sup>(1)</sup>Article 50 of the UAE Aviation Law 1991

this agreement provided that the cause of the damage is an aircraft in the case of aviation, and the damage was directly from the aircraft, or if the damage caused by another accident is not compensable and the agreement obliges the operator to compensate for the following direct damage :(2)

Damages caused by death or

-Injuries resulting from physical injury or

- Injuries caused by mental injury or.

- The damage caused by mental injury if it is the result only of a mental illness that can be identified as a result of physical injury or direct exposure to the possibility of imminent death or

Damages to property of real estate or movables

Environmental damage, if such compensation is provided for, and to the extent provided for under the law of the State Party in whose territory the damage occurred.

Cases of compensation for damage in Saudi territory

.1Any person injured on the ground by an aviation accident in the Kingdom shall be entitled to compensation from the aircraft operatorOnce it has been established that the damage has arisen directly from the aircraft in the case of flight or from a person or something fallen from itHowever, the following damages may not be compensated(1)

- The damage caused to others on the surface of the Earth in the Kingdom if it is indirect to the accident of the aircraft which occurred or arises from the mere passage of the aircraft into airspace in accordance with the applicable air traffic rules;
- The damage caused to an aircraft in the event of flight or injury to persons or funds on board the aircraft;
- Damage occurring on the ground if the liability for such damage is regulated by a contract between the injured party and the operator or person who has the right to use the aircraft at the time of the injury,Or regulated by labor legislation applicable to labor contracts concluded between such persons.
- Damage caused by aircraft used in military, customs and police services.
- Nuclear damage

Measures for assistance and rescue operations

In Saudi law, search and rescue is known as any aid provided, even if the aircraft is declared destroyed or threatened by danger Or difficulties or doubts or fears for their safety, including the aid provided to those on board.1)No person shall refrain from providing any search and rescue assistance in his capacity or the nature of his work shall enable him to provide such assistance When requested by the competent authority or concerned

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<sup>(2)</sup>Article 3 of the Compensation Convention for Damage to Third Parties Resulting from Acts of Unlawful Income Montreal 2009

<sup>(1)</sup>Article 141 of the Saudi Civil Aviation Law

<sup>(1)</sup>Article 120 of the Saudi Civil Aviation Law

.The obligation to research and assist aircraft in the event of an air accident is an international legal obligation under the Chicago Convention in Article 25 Where each Contracting State may, to the extent possible, assist aircraft in danger of over its territory and authorize the aircraft owner or the authorities of the State in which the aircraft is registered to provide the assistance required by the circumstances under the control of its authorities and Each Contracting State in the search for missing aircraft shall contribute to the joint measures to which it shall be recommended from time to time in application of this Treaty "Search and rescue procedures :Organizing search and rescue operations in the Kingdom of Saudi Arabia. The National Authority for Civil Aviation in the Kingdom is responsible for carrying out search and rescue operations for air accidents in the different regions of the Kingdom and all authorities and relevant authorities to coordinate with them, The civil aviation system shall ensure that the owner, operator or commander of any aircraft,(2) operator or commander complies with the orders of the National Civil Aviation Authority to assist in the search and rescue operations requested by the Commission when necessary when the aircraft's capabilities permit

## CONCLUSIONS

The study dealt with the subject of the legal system of the aircraft in the Saudi Civil Aviation Law 1431H and the international conventions by defining the air transport and the actions on the plane and the statement of crimes and acts against the security and safety of aviation and air accident and rescue. The following are our main findings:

- The Saudi Air Law defines the concept of aircraft, types of air transport and aircraft documents
- The Kingdom of Saudi Arabia has paid great attention to the security and safety of civil aviation.

-The Saudi legislator has established special rules for crimes and violations of the security of civil aviation and air accident and means of rescue in accordance with the provisions of the international and regional conventions acceded to by the Kingdom of Saudi Arabia.

## RECOMMENDATIONS:

- Add the legal rules of the Saudi Civil Aviation Law to regulate the contract of air transport and its provisions in an explicit way or refer to the international conventions explicitly
- Establishment of specialized colleges by air law
- The establishment of regional and national conferences within the Kingdom and civil aviation workshops.

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