

MALTA

ATT Nru. XX ta' l-1991

ATT mahruġ b'liġi mill-Parlament ta' Malta.

ATT biex jaghti sehh lill-Konvenzjoni dwar Reati u Ċerti Atti Ohra Imwettqa Abbord Ajruplani (Tokyo, 1963); lill-Konvenzjoni għat-Trażzin ta' Qbid Illegali ta' Ajruplani (The Hague, 1970); u lill-Konvenzjoni għat-Trażzin ta' Atti Illegali Kontra s-Sigurezza ta' l-Avjazzjoni Ċivili (Montreal, 1971); u lill-Protokoll għall-Konvenzjoni ta' Montreal (1988).

ACT No. XX of 1991

AN ACT enacted by the Parliament of Malta.

AN ACT to give effect to the Convention on Offence and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963); the Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970); and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal 1971); and the Protocol to the Montreal Convention (1988).

ATT TA' L-1991 DWAR IS-SIGURTÀ FL-AVJAZZJONI ĊIVILI

Arrangamenti ta' l-Artikoli

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2. Tifsir

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(L.S.)

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President

9 ta' Awissu, 1991

ATT Nru. XX ta' l-1991

ATT biex jagħti seħħ lill-Konvenzjoni dwar Reati u Ċerti Atti Ohra Imwettqa Abbord Ajruplani (Tokyo, 1963); lill-Konvenzjoni għat-Trażzin ta' Qbid Illegali ta' Ajruplani (The Hague, 1970); u lill-Konvenzjoni għat-Trażzin ta' Atti Illegali Kontra s-Sigurezza ta' l-Avjazzjoni Ċivili (Montreal, 1971); u lill-Protokoll għall-Konvenzjoni ta' Montreal (1988).

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:—

TAQSIMA I

Preliminari

1. Dan l-Att jista' jissejjaħ l-Att tal-1991 dwar is-Sigurtà fl-Avjazzjoni Ċivili. Titolu fil-qosor.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma teħtieġ xort'ohra, l-espressjonijiet li ġejjin għandhom rispettivament it-tifsir li ġej, jiġifieri: Tifsir.

“ajruplan” tfisser kull inġenji ta' l-ajru, sew jekk ikun inġenji ta' l-ajru taht kontroll Malti sew jekk le, li ma jkunx —

(a) ajruplan militari; jew

(b) ajruplan, li ma jkunx ajruplan militari, li jkun jappartjeni lill-Gvern ta' Malta jew li jkun esklussivament imhaddem fis-servizz tal-Gvern ta' Malta għal skopijiet ta' dwana jew pulizija:

izda l-Ministru jista' b'ordni, li jista' jinbidel jew jiġi revokat b'ordni sussegwenti, jipprovi li kull dispożizzjoni ta' dan l-Att tkun tapplika b'modifikazzjonijiet jew minghajrhom għal ajruplani bħal dawk imsemmijin fil-paragrafu (b) ta' din it-tifsira;

“kmandant” b'riferenza għal ajruplan tfisser il-membri ta' l-ekwipaġġ mahtur bhala kmandant ta' dak l-ajruplan mill-operatur tiegħu, jew, jekk ma tkunx dik il-persuna, il-persuna li dak il-hin tkun il-pilota fi kmand ta' l-ajruplan;

“il-Konvenzjoni ta' The Hague” tfisser il-Konvenzjoni għat-Trażzin ta' Qbid Illegali ta' Ajruplani, magħmula f'The Hague fis-16 ta' Diċembru, 1970;

“ajruplan taht kontroll Malti” tfisser ajruplan —

(a) li dak iż-żmien ikun reġistrat f'Malta; jew

(b) li ma jkunx dak iż-żmien reġistrat f'xi pajjiż izda li fil-każ tiegħu jew l-operatur ta' l-ajruplan jew kull min ikollu dritt bhala sid għal xi interess legali jew benefiku fih ikun jissodisfa dawn il-htigiet li ġejjin, jiġifieri —

(i) li jkun persuna kwalifikata li tkun sid ta' interess legali jew benefiku f'ajruplan reġistrat f'Malta; u

(ii) li jkun residenti f'Malta jew li jkollu l-post prinċipali ta' negozju tiegħu f'Malta; jew

(ċ) li, li jkun dak iż-żmien reġistrat f'xi pajjiż ieħor, ikun dak iż-żmien mikri b'amministrazzjoni shiha jew mikri minghajr ekwipaġġ lil persuna li tissodisfa, jew lil persuni li kull waħda minnhom tissodisfa, il-htigiet imsemmijin qabel jew ikun mikri kemm minghajr ekwipaġġ kif ukoll b'ekwipaġġ lil kumpannija ta' l-ajru reġistrata Malta;

“ajruplan militari” tfisser ajruplan tal-forzi navali, militari jew ta' l-ajru ta' kull pajjiż;

“Ministru” tfisser il-Ministru responsabbli għall-gustizzja;

“operatur” b'riferenza għal ajruplan tfisser il-persuna li dak iż-żmien ikollu t-tmexxija ta' dak l-ajruplan;

“pilota fi kmand” b'riferenza għal ajruplan tfisser persuna li dak il-hin tkun inkarigata biex tippilota l-ajruplan minghajr ma tkun taht ordni ta' xi pilota ieħor fuq l-ajruplan;

“il-Konvenzjoni ta' Montreal” tfisser il-Konvenzjoni għat-Trażzin ta' Atti Illegali Kontra s-Sigurezza ta' l-Avjazzjoni Ċivili, magħmula f'Montreal fit-23 ta' Settembru, 1971;

“il-Protokoll għall-Konvenzjoni ta' Montreal” tfisser il-Protokoll għat-Trażzin ta' Atti Illegali ta' Vjolenza f'Ajruporti li Jservu l-Avjazzjoni Ċivili Internazzjonali, Supplimentari għall-Kon-

venzjoni għat-Trazzin ta' Att Illegali Kontra s-Sigurezza ta' l-Avjazzjoni Civili, magħmula f'Montreal fit-23 ta' Settembru, 1971, liema Protokoll għe ffirmat f'Montreal fl-24 ta' Frar, 1988;

“il-Konvenzjoni ta' Tokyo” tfisser il-Konvenzjoni dwar Reati u Ċerti Atti Ohra Kommissi Abbord Ajruplan, magħmula fl-14 ta' Settembru, 1963.

“Uffiċjal tal-Pulizija” għandha l-istess tifsir kif mogħti lilha fl-Ordinanza dwar il-Pulizija ta' Malta.

Kap. 164.

TAQSIMA II

Dispożizzjonijiet li jagħtu sehħ lill-Konvenzjoni ta' Tokyo (1963)

3. (1) F'din it-taqsimha, hliet fejn ir-rabta tal-kliem teħtieġ xort'ohra, l-espressjonijiet li ġejjin għandhom rispettivament it-tifsiriet li ġejjin, jiġifieri —

Tifsir għat-Taqsimha II.

“pajjiż tal-Konvenzjoni” tfisser pajjiż li fih tkun dak il-hin qegħda sseħħ il-Konvenzjoni ta' Tokyo; u l-Ministru jista', b'ordni jiċċertifika li kull pajjiż speċifikat fl-ordni jkun il-hin pajjiż tal-Konvenzjoni, u kull ordni bħal dak li dak il-hin ikun fis-seħħ, li iżda jista' jiġi mibdul jew revokat b'ordni sussegwenti, għandu jkun xhieda konklussiva li l-pajjiż in kwestjoni jkun dak il-hin pajjiż tal-Konvenzjoni;

“Uffiċjal ta' l-Immigrazzjoni” għandha l-istess tifsir kif mogħti lilha bl-artikolu 2 ta' l-Att dwar l-Immigrazzjoni u tinkludi kull uffiċjal pubbliku li jkun qed jaġixxi taħt dik l-awtorità.

Kap. 217.

(2) Għall-finijiet ta' din it-Taqsimha, il-perijodu li matulu ajruplan ikun qieghed itir għandu jitqies li jinkludi —

(a) kull perijodu mill-mument meta tiġi applikata l-enerġija għall-iskop li jinqata' mill-art fuq titjira sal-mument meta jieqaf wara li jinżel l-art; u

(b) għall-finijiet ta' l-artikolu 6 —

(i) kull perijodu mill-mument meta l-bibien esterni kollha ta' l-ajruplan jingħalqu wara l-imbark għal titjira sal-mument meta xi bieb tali jinfetaħ għall-iżbark wara dik it-titjira; u

(ii) jekk l-ajruplan jagħmel inzul forzat, kull perijodu wara dak l-inzul sal-hin meta awtorità kompetenti tassumi responsabbiltà għall-ajruplan u għall-persuni u l-proprjetà abbord l-ajruplan; u

(ċ) kull perijodu meta l-ajruplan, għalkemm fuq il-wiċċ tal-baħar jew ta' l-art, ma jkunx għewwa l-limiti territorjali ta' xi pajjiż.

(3) F'din it-Taqsima, kull riferenza għal pajjiż jew il-limiti territorjali tiegħu tinkludi riferenza għall-ibhra territorjali, jekk ikun hemm, ta' dak il-pajjiż.

Applikazzjoni tal-ligi kriminali għal reati fuq ajruplan.

4. (1) Bla hsara għas-subartikolu (2), kull att li jsir abbord ta' ajruplan taht kontroll Malti waqt li jkun f'titjira x'imkien ieħor milli fi jew fuq Malta u li, jekk isir f'Malta, ikun jikkostitwixxi reat taht il-ligi fis-sehh f'Malta jikkostitwixxi dak ir-reat.

(2) Is-subartikolu (1) ma għandux japplika għal xi att li jkun, bi jew taht il-ligi fis-sehh f'Malta, espressament jew impliċitament awtorizzat meta jsir barra minn Malta.

Gurisdizzjoni. Kap. 9.

5. Għall-fini ta' l-artikolu 5 tal-Kodiċi Kriminali, reat li għalih jirreferi s-subartikolu (1) ta' l-artikolu 4, għandu jitqies li jkun sar f'Malta.

Setgħat tal-kmandant ta' ajruplan.

6. (1) Jekk, dwar xi persuna li tkun abbord ta' l-ajruplan li jkun qed itir, il-kmandant ikollu raġonevolment għalfejn jaħseb li l-persuna in kwistjoni tkun għamlet jew tkun se tagħmel xi reat kriminali jew li tkun għamlet jew tkun se tagħmel abbord ta' l-ajruplan xi att li jqiegħed fil-periklu jew jista' jqiegħed fil-periklu —

(a) is-sigurezza ta' l-ajruplan jew tal-persuni jew proprjetà abbord ta' l-ajruplan; jew

(b) il-bon ordni jew dixxiplina abbord ta' l-ajruplan,

allura, bla hsara għall-artikolu 7, il-kmandant jista' dwar dik il-persuna jiehu dawk il-miżuri raġonevoli, magħdud it-trażzin tal-persuna tagħha, skond kif ikun meħtieġ —

(i) biex tiġi protetta s-sigurezza ta' l-ajruplan jew tal-persuni jew proprjetà abbord ta' l-ajruplan; jew

(ii) biex jinżammu l-bon ordni u d-dixxiplina abbord ta' l-ajruplan; jew

(iii) biex il-kmandant ikun jista' jikkonsenja dik il-persuna skond l-artikolu 7.

(2) Meta l-kmandant ta' l-ajruplan ikun intitolat taht is-subartikolu (1) ta' dan l-artikolu li jrażzan lil xi persuna —

(a) kull membru ta' l-ewkwipaġġ ta' l-ajruplan jew kull persuna oħra abbord l-ajruplan jistgħu—

(i) fuq it-talba jew bl-awtorità tal-kmandant, jagħti l-ghajnuna biex isehh dak it-trażzin;

(ii) mingħajr ma jiksbu l-awtorità tal-kmandant, jistgħu dwar xi persuna abbord l-ajruplan, jieħdu kull miżura bħal dawk imsemmija fis-subartikolu (1) ta' dan l-artikolu li huma jkollhom raġonevolment għalfejn jaħsbu li tkun

immedjatament mehtieġa biex tiġi protetta s-sigurezza ta' l-ajruplan jew tal-persuni jew proprjetà abbord l-ajruplan; u

(b) kull membru ta' l-ekwipaġġ għandu, jekk il-kmandant ikun hekk jehtieġ, jagħti dik l-għajnuna li l-kmandant jista' jordna.

(3) Kull membru ta' l-ekwipaġġ ta' ajruplan li volontarjament u bla kawża raġonevoli jonqos li jassisti lill-kmandant ta' l-ajruplan fit-trażżin ta' xi persuna meta jkun hekk mehtieġ ikun sugġett għal multa ta' mhux iżjed minn hames mitt lira Maltija.

7. (1) Meta persuna tkun taht trażżin fuq ajruplan bis-saħħa ta' l-artikolu 6, il-kmandant ta' l-ajruplan għandu hekk kif ikun prattikabbli u jekk ikun possibbli qabel jinzel f'xi pajjiż, iġharraf lill-awtoritajiet f'dak il-pajjiż bil-fatt li abbord għandu persuna mrażżna u jagħti r-raġunijiet ta' dak it-trażżin.

Dispożizzjonijiet
anċillari għas-
setgħat taht
l-artikolu 6.

(2) Kull trażżin impost fuq xi persuna abbord ta' ajruplan li jsir bis-saħħa ta' l-artikolu 6 ma għandux jitkompla wara l-waqt meta għall-ewwel darba wara dak it-trażżin l-ajruplan jieqaf milli jibqa' jtir hlief —

(a) għal kull perijodu (magħdud il-perijodu ta' xi titjira oħra) bejn dak il-hin u l-ewwel okkażjoni ta' wara li fiha l-kmandant ikun jista' b'kull kunsens mehtieġ ta' l-awtoritajiet xierqa jiżbark jew jikkonsenja l-persuna mrażżna skond is-subartikolu (3); jew

(b) jekk il-persuna mrażżna taqbel li tkompli l-vjaġġ tagħha taht trażżin abbord ta' dak l-ajruplan.

(3) Jekk fil-każ ta' xi persuna abbord ta' ajruplan il-kmandant ta' ajruplan ikollu għalfejn raġonevolment —

(a) jaħseb kif imsemmi fis-subartikolu (1) ta' l-artikolu 6; u

(b) jaħseb li jkun mehtieġ li jagħmel hekk sabiex tiġi protetta s-sigurezza ta' l-ajruplan jew tal-persuni jew proprjetà abbord ta' l-ajruplan jew biex tinzamm il-bon ordni u d-dixxiplina abbord ta' l-ajruplan,

huwa jista' jiżbarka lil dik il-persuna f'kull pajjiż li fih jista' jkun dak l-ajruplan u, jekk ikun konvenjenti, jikkonsenjaha lil persuna li jkollha l-funzjoni ta' pulizija jew ta' uffiċjal ta' l-immigrazzjoni.

(4) Il-kmandant ta' ajruplan —

(a) jekk jiżbarka lil xi persuna bis-saħħa tas-subartikolu (3), fil-każ ta' ajruplan taht kontroll Malti, f'xi pajjiż jew, fil-każ ta' kull ajruplan ieħor, f'Malta, għandu jirraporta l-fatt ta' l-iżbark, u r-raġunijiet għalih, lill-awtoritajiet fil-pajjiż ta' l-iżbark u għandu wkoll jitlob lill-awtoritajiet biex jinnotifikaw rappreżentant diplomatiku jew konsulari tal-pajjiż tan-nazzjonalità ta' dik il-persuna; jew

(b) jekk jikkonsenja lil xi persuna bis-sahha tas-subartikolu (3), ghandu fil-hin tal-konsenja jaghti lill-ufficjal xieraq dik ix-xiehda u dak it-tagħrif li legittimament ikunu fil-pussess tiegħu dwar il-htieġa li jiehu miżuri kontra dik il-persuna bis-sahha ta' l-artikolu 6.

(5) Kull kmandant ta' ajruplan li volontarjament u minghajr kawża raġonevoli jonqos li jħares il-htieġa tas-subartikolu (4) jehel, meta jinstab hati, multa ta' hames mitt lira Maltija.

Gurisdizzjoni ta' pajjiżi tal-Konvenzjoni għal finijiet ta' estradizzjoni. Kap. 276.

8. Għall-finijiet ta' l-applikazzjoni ta' l-Att ta' l-1978 dwar l-Estradizzjoni għal delitti kommissi abbord ta' ajruplan li jkun qiegħed itir, kull ajruplan registrat f'pajjiż tal-Konvenzjoni jista', f'kull hin waqt li dak l-ajruplan ikun qiegħed itir, jitqies li jkun fil-gurisdizzjoni ta' dak il-pajjiż sew jekk f'dak il-hin ikun jew ma jkunx ukoll fil-gurisdizzjoni ta' xi pajjiż ieħor.

Dispożizzjonijiet dwar xiehda f'konnessjoni ma' ajruplani.

9. (1) Meta, fi proċedimenti quddiem xi qorti f'Malta għal reat magħmul abbord ta' ajruplan, tkun tenhtieg ix-xiehda ta' xi persuna u l-qorti tkun sodisfatta li dik il-persuna ma tkunx tista' tinstab f'Malta, tkun ammissibbli bħala xiehda quddiem dik il-qorti kull dikjarazzjoni dwar is-sugġett ta' dawk il-proċedimenti li tkun saret qabel bil-gurament minn dik il-persuna u li tkun hekk saret —

(a) fil-preżenza tal-persuna imputata bir-reat; u

(b) f'xi pajjiż ieħor tal-Konvenzjoni lil ufficjal li jkollu funzjonijiet li jkunu jikkorrispondu għall-funzjonijiet, f'Malta, jew ta' mhallef jew ta' magistral jew ta' ufficjal konsulari.

(2) Kull xiehda bħal dik għandha tiġi awtentikata bil-firma ta' l-imhallee, ta' magistral jew ufficjal konsulari, li quddiemu tkun saret, u għandha tiġi ċertifikata minnu bħala li tkun ittiehdet fil-preżenza tal-persuna imputata kif intqal qabel.

(3) Ma jkunx mehtieg fi proċedimenti li tiġi ppruvata l-firma jew il-karattru ufficjali tal-persuna li tkun qed tidher bħala li awtentikat xi xiehda, jew li tkun tat dak iċ-ċertifikat kif intqal qabel; u dak iċ-ċertifikat għandu, kemm-il darba ma jigix ippruvat il-kuntrarju, jkun prova biżżejjed f'kull proċediment li l-persuna imputata kif intqal qabel kienet preżenti waqt li kienet qiegħda tinghata x-xiehda.

Eżenzjoni minn responsabbiltà għal atti kontra hatjin taht din it-Taqsima.

10. Il-kmandant ta' ajruplan, kull membru ieħor ta' l-ekwipaġġ, kull passigġier, kull sid jew operatur ta' ajruplan jew kull min għan-nom tiegħu ssir titjira jieħu azzjoni kontra xi persuna bis-sahha ta' din it-Taqsima jkun eżenti minn responsabbiltà ta' xi miżuri mehuda kontra min jagħmel ir-reat skond din it-Taqsima sew jekk min ikun għamel ir-reat jinstab hati sew jekk le.

TAQSIMA III

Dispożizzjonijiet għall-eżekuzzjoni tal-Konvenzjoni ta' The Hague (1970)

11. F'din it-Taqsima, kemm-il darba r-rabta tal-kliem ma tifsir. tehtiegħ xort'ohra —

“pajjiż tal-konvenzjoni” tfisser pajjiż li f'dak il-waqt fih tkun issehh il-Konvenzjoni ta' The Hague.

12. (1) Kull min abbord ajruplan f'titjira kontra l-ligi, bil-forza jew theddida ta' forza jew b'xi forma oħra ta' intimidazzjoni, jiehu f'idejh jew jeżerċita l-kontroll ta' dak l-ajruplan, jikkommetti r-reat ta' htif ta' dak l-ajruplan. Htif ta' ajruplani.

(2) Għall-finijiet ta' dan l-artikolu, ajruplan jitqies li jkun f'titjira f'kull hin mill-mument meta l-bibien esterni kollha tiegħu jingħalqu wara l-imbark sal-mument meta xi bieb minn dawk jinfetħ għall-iżbark, u fil-każ ta' nżul forzat, it-titjira titqies li tkompli sakemm l-awtoritajiet kompetenti tal-pajjiż li fih isir dak l-inżul forzat jiehdu fuqhom ir-responsabbiltà għall-ajruplan u għall-persuni u l-proprietà abbord.

13. Kull min jikkommetti r-reat ta' htif ta' ajruplan tingħatalu piena ta' prigunerija għal għomru. Piena għal htif ta' ajruplan.

14. (1) Kull min, meta jkun persuna li tkun qed tikkommetti r-reat ta' htif ta' ajruplan, jikkommetti, f'konnessjoni ma' dak ir-reat, xi att ta' vjolenza kontra xi passigġier jew membru ta' l-ekwipaġġ ta' dak l-ajruplan, jehel l-istess piena li biha kien punibbli taħt xi ligi li f'dak il-waqt tkun issehh f'Malta kieku dak l-att kien sar f'Malta. Piena għal atti ta' vjolenza konnessi ma' htif ta' ajruplan.

(2) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu “att ta' vjolenza” tfisser kull att li jikkostitwixxi reat skond l-artikoli 211, 212, 214, 216, 217, 218, 220 u 222 tal-Kodiċi Kriminali.

15. (1) Bla hsara għad-dispożizzjonijiet tas-subartikolu (2) meta reat taħt din it-Taqsima jiġi kommess 'il barra minn Malta, il-persuna li tagħmel dak ir-reat tista' tiġi trattata dwaru daqsliekeku dak ir-reat twettaq f'Malta. Gurisdizzjoni.

(2) Ebda qorti ma għandha tiehu konjizzjoni ta' reat punibbli taħt din it-Taqsima u li jsir barra minn Malta hlief meta —

(a) dak ir-reat isir abbord ajruplan registrat f'Malta; jew

(b) dak ir-reat isir abbord ajruplan li dak il-hin ikun mikri mingħajr ekwipaġġ lil kerrej li jkollu l-post prinċipali ta' negozju tiegħu, jew fejn ma jkollu ebda post ta' negozju bħal dak, ir-residenza permanenti tiegħu f'Malta; jew

(ċ) min ikun allegat li għamel ir-reat ikun ċittadin ta' Malta jew ikun abbord l-ajruplan li dwaru jkun sar dak ir-reat meta l-ajruplan jinżel Malta jew jinstab f'Malta.

Dispożizzjonijiet
dwar
estradizzjoni.

16. (1) Ir-reati taht din it-Taqsima għandom jitqiesu li jkunu għew inklużi bħala reati ta' estradizzjoni u li jkun għe provdut għalihom fit-trattati ta' estradizzjoni kollha magħmula minn Malta mal-pajjiżi tal-Konvenzjoni u li jestendu għal, u jkunu obligatorji għal, Malta fid-data tal-bidu fis-sehh ta' dan l-Att.

(2) Għall-finijiet ta' l-applikazzjoni ta' l-Att ta' l-1978 dwar l-Estradizzjoni għal reati taht din it-Taqsima ta' dan l-Att, kull ajruplan reġistrat f'Pajjiż tal-Konvenzjoni għandu, f'kull hin waqt li dak l-ajruplan ikun f'titjira, jitqies li jkun fil-ġurisdizzjoni ta' dak il-pajjiż, kemm jekk dak il-hin ikun ukoll fil-ġurisdizzjoni ta' xi pajjiż iehor u sew jekk ma jkunx.

(3) Meta l-Att dwar l-Estradizzjoni ma jkunx japplika fil-każ ta' xi Stat li jkun parti fil-Konvenzjoni ta' The Hague, il-Ministru jista' jagħmel ordni li jipprovi sabiex l-Att dwar l-Estradizzjoni jkun japplika fil-każ ta' dak l-Istat bl-istess effett u skond l-istess patti u kondizzjonijiet daqskieku awtorizzat bl-artikoli 4 u 7 ta' l-Att dwar l-Estradizzjoni u, għall-finijiet ta' xi ordni bħal dak, dik il-Konvenzjoni tkun ekwivalenti għall-ispeċifikazzjoni ta' pajjiż tal-*Commonwealth* taht l-imsemmi artikolu 4 u għandha tiġi trattata bħala arrangament bħal dak imsemmi fl-imsemmi artikolu 7.

(4) Meta l-Att dwar l-Estradizzjoni jkun japplika għal xi Stat bis-sahha biss ta' ordni magħmul taht is-subartikolu (3), ebda applikazzjoni għal estradizzjoni minn dak l-Istat ma għandha tirreferixxi għal xi delitti ta' estradizzjoni skond it-tifsir mogħti fl-Att dwar l-Estradizzjoni bl-eċċezzjoni ta' reati meqjusa li huma nklużi fil-lista ta' delitti ta' estradizzjoni skond is-subartikolu (1).

Partijiet
Kontraenti fil-
Konvenzjoni.

17. Il-Ministru jista', b'ordni fil-Gazzetta, jiċċertifika min huma l-partijiet kontraenti fil-Konvenzjoni ta' The Hague u sa fejn huma jkunu approfittaw ruhhom mid-dispożizzjonijiet tal-Konvenzjoni, u kull ordni bħal dik tkun prova konklussiva tal-materji ċċertifikati fiha.

TAQSIMA IV

Dispożizzjonijiet li jagħtu sehh lill-Konvenzjoni ta' Montreal (1971) u l-Protokoll għall-Konvenzjoni ta' Montreal (1988)

Tifsir.

18. (1) F'din it-Taqsima, kemm-il darba r-rabta tal-kliem ma tehtiegħ xort'ohra, —

“ajruport” tfisser kull area ta' art jew ilma mahsuba, mghammra, maqtugħa għaliha jew komunement użata biex toffri faċilitajiet għat-tluġ u nżul ta' l-ajruplani:

“pajjiż tal-Konvenzjoni” tfisser pajjiż li fih f’dak il-hin ikunu fis-seħh il-Konvenzjoni ta’ Montreal (1970) u l-Protokoll għall-Konvenzjoni ta’ Montreal (1988).

(2) għall-finijiet ta’ din it-Taqsima —

(a) ajruplan jitqies li jkun f’titjira f’kull hin mill-mument meta l-bibien esterni kollha tiegħu jingħalqu wara l-imbark sal-mument meta xi bieb minn daww jinfetħ għall-iżbark, u fil-każ ta’ nżul forzat, it-tijira titqies li tkompli sakemm l-awtoritajiet kompetenti tal-pajjiż li fih isir dak l-inżul forzat jiehdu fuqhom ir-responsabbiltà għall-ajruplan u għall-persuni u l-proprjetà abbord;

(b) ajruplan jitqies li jkun qed jagħmel servizz mill-bidu tat-tiegħija ta’ qabel it-titjira ta’ l-ajruplan mill-persunal ta’ l-art jew mill-ekwipaġġ għal titjira speċifika sa erbgħa u għoxrin siegħa wara xi nżul u l-perijodu ta’ dak is-servizz għandu jinkludi l-perijodu shih li matulu l-ajruplan ikun qed itir.

19. (1) Kull min illegalment u bil-hsieb —

Reat ta’ għemil ta’ vjolenza abbord ajruplan f’titjira, eċċ.

(a) jagħmel att ta’ vjolenza kontra persuna abbord ajruplan f’titjira li jista’ jipperikola s-sigurezza ta’ dak l-ajruplan; jew

(b) jiddistruggi ajruplan li jkun qed jagħmel servizz jew jikkaguna ħsara lil dak l-ajruplan b’tali mod li jinabilitah milli jtir jew li jista’ jipperikola s-sigurezza tiegħu f’titjira; jew

(c) iqiegħed jew jikkaguna li jitqiegħed fuq ajruplan li jkun qed jagħmel servizz, b’xi mezz ikun li jkun, artifizzju jew sustanza li jistgħu jiddistruggu dak l-ajruplan, jew li jikkagunawlu ħsara li tista’ tipperikola s-sigurezza tiegħu f’titjira; jew

(d) jikkomunika tali informazzjoni li hu jkun jaf li hija falza sabiex jipperikola s-sigurezza ta’ ajruplan f’titjira,

ikun suġġett għal prigunerija għal għomru.

(2) Kull min illegalment u bil-hsieb bl-użu ta’ xi artifizzju, sustanza jew arma:

(a) jagħmel att ta’ vjolenza kontra persuna f’ajruport li jservi avjazzjoni ċivili internazzjonali li jikkaguna jew li jista’ jikkaguna ferita gravi jew mewt; jew

(b) jiddistruggi jew serjament jagħmel ħsara lill-facilitajiet ta’ ajruport li jservi avjazzjoni ċivili internazzjonali jew l-ajruplani ta’ go fih li ma jkunux qed jagħmlu servizz jew jisfratta s-servizzi ta’ l-ajruport,

jekk dak l-att jipperikola jew jista’ jipperikola s-sigurezza f’dak l-ajruport ikun suġġett għal prigunerija għal għomru jew għal xi kastig anqas, li ma jkunx anqas minn prigunerija għal tliet snin skond ma jidhrilha l-Qorti li hu xieraq.

(3) Għall-finijiet ta' dan l-artikolu "att ta' vjolenza" tfisser kull att li jikkostitwixxi reat skond l-artikoli 211, 212, 214, 216, 217, 218, 220 u 222 tal-Kodiċi Kriminali jew xi att li bih issir splużjoni li minn natura tagħha tista' tpoġġi l-hajja fil-perikolu, jew tikkawża hsara serja lill-proprjetà u hija malizzjożament ikkawżata permezz ta' sustanza esplosiva, kemm jekk issir hsara lil persuni jew lil proprjetà jew le; "sustanza esplożiva" għandha l-istess tifsir kif mogħti lilha bl-artikolu 314 tal-Kodiċi Kriminali.

Distruzzjoni ta',
jew hsara lil,
faċilitajiet ta'
navigazzjoni
fl-ajru.

20. Kull min illegalment u bil-hsieb jiddistruggi jew jagħmel hsara lil faċilitajiet ta' navigazzjoni fl-ajru jew ifixkel it-thaddim tagħhom b'tali mod li jista' jipperikola s-sigurezza ta' l-ajruplan fit-titjira jkun suġġett għal prigunerija għal għomru.

Ġurisdizzjoni.

21. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (2), meta reat taht l-artikolu 19 jiġi kommess 'il barra minn Malta, il-persuna li tagħmel dak ir-reat tista' tiġi trattata dwaru daqskieku dak ir-reat kien sar f'Malta.

(2) Ebda qorti ma għandha tiehu konjizzjoni ta' reat punibbli taht l-artikolu 19 li jsir 'il barra minn Malta hliet meta —

(a) dak ir-reat isir abbord ajruplan registrat f'Malta; jew

(b) dak ir-reat isir abbord ajruplan li dak il-hin ikun mikri mingħajr ekwipaġġ lil kerrej li jkollu l-post prinċipali ta' negozju tiegħu, jew fejn ma' jkollu ebda post ta' negozju bħal dak, ir-residenza permanenti tiegħu f'Malta; jew

(c) min ikun allegat li għamel ir-reat ikun ċittadin ta' Malta jew ikun abbord l-ajruplan li dwaru jsir ir-reat meta jinżel f'Malta jew jinstab f'Malta.

Dispożizzjonijiet
dwar
estradizzjoni.

22. (1) Ir-reati taht din it-Taqsima għandhom jitqiesu li jkunu ġew inkluzi bħala reati ta' estradizzjoni u li jkun ġie provdut għalihom fit-trattati ta' estradizzjoni kollha magħmula minn Malta mal-pajjiżi tal-Konvenzjoni u li jestendu għal, u jkunu obbligatorji għal, Malta fid-data tal-bidu fis-seħh ta' dan l-Att.

(2) Għall-finijiet ta' l-applikazzjoni ta' l-Att ta' l-1978 dwar l-Estradizzjoni għal reati taht dan l-Att, kull ajruplan registrat f'pajjiż tal-Konvenzjoni għandu, f'kull hin waqt li dak l-ajruplan ikun f'titjira, jitqies li jkun fil-ġurisdizzjoni ta' dak il-pajjiż sew jekk dak il-hin ikun ukoll fil-ġurisdizzjoni ta' xi pajjiż ieħor u sew jekk ma jkunx.

(3) Meta l-Att dwar l-Estradizzjoni ma jkunx japplika fil-każ ta' xi Stat li jkun parti fil-Konvenzjoni ta' Montreal, jew fil-Protokol ta' dik il-Konvenzjoni, il-Ministru jista' jagħmel ordni li jipprovdi sabiex l-

Att dwar l-Estradizzjoni jkun japplika fil-każ ta' dak l-Istat bl-istess effett u skond l-istess patti u kondizzjonijiet kif awtorizzat bl-artikoli 4 u 7 ta' l-Att dwar l-Estradizzjoni u, għall-finijiet ta' dak l-ordni, dik il-Konvenzjoni tkun ekwivalenti għall-ispeċifikazzjoni ta' pajjiż tal-*Commonwealth* taht l-imsemmi artikolu 4 u għandha tiġi trattata bħala arrangament bħal dak imsemmi fl-imsemmi artikolu 7.

(4) Meta l-Att dwar l-Estradizzjoni jkun japplika għal xi Stat bis-saħħa biss ta' ordni magħmul taht is-subartikolu (3), ebda applikazzjoni għal estradizzjoni minn dak l-Istat ma għandha tirreferixxi għal xi delitti ta' estradizzjoni skond is-subartikolu (1).

23. Il-Ministru jista' b'ordni fil-Gazzetta, jiċċertifika min huma l-partijiet kontraenti fil-Konvenzjoni ta' Montreal u l-Protokol ta' dik il-Konvenzjoni u sa fejn huma jkunu approfittaw ruħhom id-dispożizzjonijiet tal-Konvenzjoni, u kull ordni bħal dik tkun konklussiva tal-materji ċċertifikati fiha.

Partijiet kontraenti tal-Konvenzjoni.

GENERALI

24. Jekk il-Ministru b'ordni jiddikjara —

(a) li xi żewġ Stati jew iżjed imsemmijin fl-ordni jkunu waqqfu organizzazzjoni jew aġenzija li thaddem ajruplani; u

Ajruplani mhaddma minn organizzazzjoni mista jew internazzjonali.

(b) li wiehed minn dawk l-Istati ikun ġie speċifikat biex jeżerċita s-setgħa ta' l-Istat ta' registrazzjoni, jew biex ikun ikkunsidrat bħala l-Istat tagħha, dwar l-ajruplani kollha jew xi ajruplan hekk imhaddem,

allura, għall-finijiet ta' dawk id-dispożizzjonijiet ta' dan l-Att li l-Ordni jista' jippreskrivi, l-Istat hekk speċifikat jew ikkunsidrat taht il-paragrafu (b) jitqies li jkun l-Istat li fih l-ajruplani kollha hekk imhaddma, jew (skond il-każ) kull tali ajruplan speċifikat fl-ordni, huma registrati.

25. Il-Ministru jista' jagħmel regolamenti għall-iskop li jingħata sehh lil dan l-Att u mingħajr ħsara għall-generalità ta' dak imsemmi qabel, jista' jipprovdi —

Regolamenti.

(a) għall-proċedura fl-għoti ta' għajnuna lil min jagħmel ir-reat biex jikkomunika ma' rappreżentant ta' l-Istat li tiegħu ikun ċittadin;

(b) għan-notifikazzjoni lil xi Stat barrani ta' xi materja li għandha tiġi notifikata taht dan l-Att;

(c) għall-għoti lura u l-konservazzjoni tal-kontroll ta' ajruplan lill-kmandant ta' l-ajruplan;

(d) għall-ghoti lura ta' ajruplan u t-tagħbija tiegħu, wara li dak l-ajruplan u t-tagħbija jkunu ġew illegalment maqbuda, lil kull persuna li tkun legittimament intitolata għall-pussess tagħhom;

(e) għall-ghoti ta' għajjnuna lill-passiġġieri u lill-ekwipaġġ biex ikomplu l-vjaġġ tagħhom wara l-qbid illegali ta' ajruplan ; u

(f) għal biex issir kull investigazzjoni dwar atti illegali jew perikolużi abbord ajruplan.

Protezzjoni
ta' azzjoni
mehuda
bona fidi.

26. (1) Ebda kawża, prosekuzzjoni jew proċediment legali iehor ma jistgħu jsiru kontra xi persuna għal xi haġa li ssir jew tkun maħsuba li ssir f'bona fidi in segwitu tad-disposizzjonijiet ta' dan l-Att.

(2) Ebda kawża jew proċediment legali iehor ma jistgħu jsiru kontra l-Gvern ta' Malta għal xi hsara kkaġunata jew li tista' tiġi kkaġunata għal xi haġa li ssir jew tkun maħsuba li ssir f'bona fidi in segwitu tad-disposizzjonijiet ta' dan l-Att.

Awtorizzazzjoni
ghar-ratifika
ta' dawn il-
Konvenzjonijiet.

27. Bis-saħħa ta' dan l-Att, il-Gvern ta' Malta huwa awtorizzat li jirratifika l-Konvenzjonijiet ta' Tokyo, ta' The Hague u ta' Montreal, u l-Protokol ta' l-1988 għall-Konvenzjoni ta' Montreal.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 555 tat-30 ta' Lulju, 1991.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Agent Skrivant tal-Kamra tad-Deputati.

THE CIVIL AVIATION (SECURITY) ACT, 1991**Arrangements of Sections****PART I****Preliminary**

Section No.

1. Short title
2. Interpretation

PART II**Provisions giving effect to the Tokyo Convention (1963)**

3. Interpretation of Part II
4. Application of criminal law to offences on aircraft
5. Jurisdiction
6. Powers of the aircraft commander
7. Provisions ancillary to powers under section 6
8. Jurisdiction of Convention countries for extradition purposes
9. Provisions as to evidence in connection with Aircraft
10. Exemption from liability for acts against offenders under this Part

PART III**Provisions giving effect to the Hague Convention (1970)**

11. Interpretation
12. Hijacking
13. Punishment for hijacking
14. Punishment of violence connected with hijacking
15. Jurisdiction
16. Provisions as to extradition
17. Contracting Parties to Convention

PART IV

**Provisions giving effect to the Montreal Convention (1971)
and the Montreal Protocol (1988)**

18. Interpretation
19. Offence of committing violence on board an aircraft in flight, etc.
20. Destruction of, or damage to, air navigation facilities
21. Jurisdiction
22. Provisions as to Extradition
23. Contracting parties to Convention

GENERAL

24. Aircraft operated by joint or international organization
25. Regulations
26. Protection of action taken in good faith
27. Authorisation for the Ratification of these Conventions.

I assent.

(L.S.)

ĊENSU TABONE
President

9th August, 1991

ACT No. XX of 1991

AN ACT to give effect to the Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963); the Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970); and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal 1971); and the Protocol to the Montreal Convention (1988).

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I**Preliminary**

1. This Act may be cited as the Civil Aviation (Security) Act, 1991. Short title.
2. In this Act, unless the context otherwise requires, the following expressions have the following meanings respectively, that is to say:— Interpretation.

“aircraft” means any aircraft, whether or not a Maltese-controlled aircraft, other than —

(a) a military aircraft; or

(b) an aircraft which, not being a military aircraft, belongs to or is exclusively employed in the service of the Government of Malta for customs or police purposes;

but the Minister may by order, which may be varied or revoked by a subsequent order, provide that any of the provisions of this Act

shall apply with or without modifications to aircraft such as are mentioned in paragraph (b) of this definition;

“commander” in relation to an aircraft means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“The Hague Convention” means the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on the 16th day of December, 1970;

“Maltese controlled aircraft” means an aircraft —

(a) which is for the time being registered in Malta; or

(b) which is not for the time being registered in any country but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it satisfies the following requirements, namely —

(i) that he is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Malta; and

(ii) that he resides or has his principal place of business in Malta; or

(c) which, being for the time being registered in some other country, is for the time being chartered by demise or leased without crew to a person who, or to persons each of whom, satisfies the requirements aforesaid or leased whether without or with crew to an airline registered in Malta;

“Military aircraft” means an aircraft of the naval, military or air forces of any country;

“Minister” means the Minister responsible for justice;

“operator” in relation to any aircraft at any time means the person who at that time has the management of that aircraft;

“pilot in command” in relation to an aircraft means a person who for the time being is in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

Cap. 164 “police officer” has the same meaning assigned to it by the Malta Police Ordinance;

“the Montreal Convention” means the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on the 23rd day of September, 1971;

“the Montreal Protocol” means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Montreal Convention, which Protocol was signed at Montreal on the 24th February, 1988;

“the Tokyo Convention” means the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on the 14th of September, 1963.

PART II

Provisions giving effect to the Tokyo Convention (1963)

3. (1) In this part, except where the context otherwise requires, the following expressions have the following meanings respectively, that is to say — Interpretation of Part II.

“Convention country” means a country in which the Tokyo Convention is for the time being in force; and the Minister may, by order, certify that any country specified in the order is for the time being a Convention country, and any such order for the time being in force which may be varied or revoked by a subsequent order, shall be conclusive evidence that the country in question is for the time being a Convention country;

“Immigration Officer” has the same meaning assigned to it by section 2 of the Immigration Act and includes any public officer acting under such authority; Cap. 217.

(2) For the purposes of this Part, the period during which an aircraft is in flight shall be deemed to include —

(a) any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run ends; and

(b) for the purposes of section 6 —

(i) any period from the moment when all external doors of the aircraft are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight; and

(ii) if the aircraft makes a forced landing, any period thereafter until the time when a competent authority takes over responsibility for the aircraft and for the persons and property on board the aircraft; and

(c) any period when the aircraft, although on the surface of the sea or land, is not within the territorial limits of any country.

(3) In this Part, any reference to a country or the territorial limits thereof includes a reference to the territorial waters, if any, of that country.

Application of criminal law to offences on aircraft.

4. (1) Subject to subsection (2), any act taking place on board any Maltese controlled aircraft while in flight elsewhere than in or over Malta and which, if taking place in Malta, would constitute an offence under the law in force in Malta shall constitute that offence.

(2) Subsection (1) shall not apply to any act which is, by or under the law in force in Malta, expressly or impliedly authorised when taking place outside Malta.

Jurisdiction. Cap. 9.

5. For the purpose of section 5 of the Criminal Code, an offence referred to in subsection (1) of section 4, shall be deemed to have been committed in Malta.

Powers of the Aircraft Commander.

6. (1) If the commander of an aircraft in flight has reasonable grounds to believe in respect of any person that the person in question has committed, or is about to commit, on board the aircraft any criminal offence or has done or is about to do any act which jeopardizes or may jeopardize —

(a) the safety of the aircraft or of persons or property on board the aircraft; or

(b) good order and discipline on board the aircraft.

then, subject to section 7, the commander may take with respect to that person such reasonable measures, including restraint of his person, as may be necessary —

(i) to protect the safety of the aircraft or of persons or property on board the aircraft; or

(ii) to maintain good order and discipline on board the aircraft; or

(iii) to enable the commander to deliver that person in accordance with section 7.

(2) Where the commander of the aircraft is entitled under subsection (1) to restrain any person —

(a) any member of the crew of the aircraft or any other person on board the aircraft may —

(i) at the request or with the authority of the commander, render assistance in effecting the restraint;

(ii) without obtaining the authority of the commander, take with respect to any person on board the aircraft any measures such as are mentioned in subsection (1) which he has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft; and

(b) any member of the crew shall, if the commander so requires, render such assistance as the commander may direct.

(3) Any member of the crew of an aircraft who wilfully and without reasonable cause fails to assist the commander of the aircraft in restraining any person when so required shall be liable to a fine (*multa*) not exceeding five hundred Maltese liri.

7. (1) Where a person is under restraint on an aircraft pursuant to section 6 the commander of the aircraft shall as soon as practicable, and if possible before landing in any country, notify the authorities in that country of the fact that a person on board is under restraint and of the reasons for such restraint.

Provisions
ancillary to
powers under
section 6.

(2) Any restraint imposed on any person on board an aircraft conferred by section 6 shall not be continued after the time when the aircraft first thereafter ceases to be in flight other than —

(a) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the appropriate authorities to disembark or deliver the person under restraint in accordance with subsection (3); or

(b) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(3) The commander of an aircraft if in the case of any person on board the aircraft he has reasonable grounds —

(a) to believe as mentioned in subsection (1) of section 6; and

(b) to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft.

may disembark that person in any country in which that aircraft may be and, if convenient, deliver him to a person having the function of a police officer or immigration officer.

(4) The commander of an aircraft —

(a) if he disembarks any person in pursuance of subsection (3), in the case of a Maltese-controlled aircraft, in any country or, in the case of any other aircraft, in Malta, shall report the fact of, and the reasons for, that disembarkation to the authorities in the country of disembarkation and shall also request the authorities to notify a diplomatic or consular representative of the country of nationality of that person; or

(b) if he delivers any person in pursuance of subsection (3), shall at the time of delivery furnish to the appropriate officer such evidence and information relating to the need to take measures against that person pursuant to section 6, as at the time of furnishing are lawfully in his possession.

(5) Any commander of an aircraft who wilfully and without reasonable cause fails to comply with the requirement of subsection (4) shall be liable on conviction to a fine (*multa*) of five hundred Maltese liri.

Jurisdiction of Convention countries for extradition purposes.
Cap. 276.

8. For the purposes of the application of the Extradition Act to crimes committed on board an aircraft in flight, any aircraft registered in a Convention country may, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country whether or not it is for the time being also within the jurisdiction of any other country.

Provisions as to evidence in connection with aircraft.

9. (1) Where, in proceedings before any court in Malta for an offence committed on board an aircraft, the evidence of any person is required and the court is satisfied that such person cannot be found in Malta, there shall be admissible in evidence before that court any statement relating to the subject-matter of those proceedings previously made on oath by that person and which was so made —

(a) in the presence of the person charged with the offence;
and

(b) in any other Convention country to an officer having functions corresponding to the functions, in Malta, either of judge or of a magistrate or of a consular officer.

(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made, and shall be certified by him to have been taken in the presence of the person charged as aforesaid.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing to have authenticated any deposition, or to have given such a certificate as aforesaid; and such a certificate shall, unless the contrary is proved, be sufficient evidence in any proceedings that the person charged as aforesaid was present at the making of the deposition.

Exemption from liability for acts against offenders under this Part.

10. The commander of an aircraft, any other member of the crew, any passenger, any owner or operator of an aircraft or any person on whose behalf a flight is made who takes action against any person in pursuance of this Part shall be exempt from liability for any measures taken against the offender in accordance with this Part whether the offender is convicted or not.

PART III

Provisions giving effect to The Hague Convention (1970)

11. In this Part, unless the context otherwise requires —

Interpretation.

“Convention country” means a country in which The Hague Convention is for the time being in force.

12. (1) Whoever on board an aircraft in flight, unlawfully, by force or threat of force or by any other form of intimidation, seizes or exercises control of that aircraft, commits the offence of hijacking of such aircraft.

Hijacking.

(2) For the purposes of this section, an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country in which such forced landing takes place take over the responsibility for the aircraft and for persons and property on board.

13. Whoever commits the offence of hijacking shall be punished with imprisonment for life.

Punishment for hijacking.

14. (1) Whoever, being a person committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be punished with the same punishment with which he would have been punishable under any law for the time being in force in Malta if such act had been committed in Malta.

Punishment for acts of violence connected with hijacking.

(2) For the purposes of subsection (1) of this section any act of violence means any act which would constitute an offence under sections 211, 212, 214, 216, 217, 218, 220 and 222 of the Criminal Code.

15. (1) Subject to the provisions of subsection (2) where an offence under this part is committed outside Malta, the person committing such offence may be dealt with in respect thereof as if such offence had been committed in Malta.

Jurisdiction.

(2) No court shall take cognizance of an offence punishable under this Part and which is committed outside Malta unless —

(a) such offence is committed on board an aircraft registered in Malta; or

(b) such offence is committed on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business or where he has no such place of business, his permanent residence in Malta; or

(c) the alleged offender is a citizen of Malta or is on board the aircraft in relation to which such offence is committed when it lands in Malta or is found in Malta.

Provisions as to extradition.

16. (1) The offences under this Part shall be deemed to have been included as extraditable offence and provided for all the extradition treaties made by Malta with Convention countries and which extend to, and are binding on, Malta on the date of commencement of this Act.

(2) For the purposes of the application of the Extradition Act, to offences under this Part, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country whether or not it is for the time being also within the jurisdiction of any other country.

(3) Where the Extradition Act does not apply in the case of any State which is a party to The Hague Convention, the Minister may make an order providing for the Extradition Act to apply in the case of that State with like effect and subject to like terms and conditions as if authorised by sections 4 and 7 of the Extradition Act and, for the purposes of any such order, that Convention shall be equivalent to the designation of a Commonwealth country under the said section 4 and shall be treated as an arrangement such as is mentioned in the said section 7.

(4) Where the Extradition Act applies to any State by virtue only of an order made under subsection (3), no application for extradition by that State shall relate to any extradition crimes within the meaning of the Extradition Act except offences deemed to be included in the list of extradition crimes pursuant to subsection (1).

Contracting Parties to Convention.

17. The Minister may, by Order in the Gazette, certify as to which are the contracting parties to The Hague Convention and to what extent they have availed themselves of the provisions of the Convention, and any such Order shall be conclusive evidence of the matters certified therein.

PART IV

Provisions giving effect to the Montreal Convention (1971) and the Montreal Protocol (1988)

Interpretation.

18. (1) In this Part, unless the context otherwise requires, —

“airport” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the take-off and landing of aircraft;

“Convention country” means a country in which the Montreal Convention and the Montreal Protocol are for the time being in force.

(2) For the purposes of this Part, —

(a) an aircraft shall be deemed to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and in the case of a forced landing, the flight shall be deemed to continue until the competent authorities of the country in which such forced landing takes place take over the responsibility for the aircraft and for persons and property on board;

(b) an aircraft shall be deemed to be in service from the beginning of the pre-flight preparation of the aircraft by the ground staff or by the crew for a specific flight until twenty-four hours after any landing and the period of such service shall include the entire period during which the aircraft is in flight.

19. (1) Whoever unlawfully and intentionally —

(a) commits an act of violence against a person on board an aircraft in flight which is likely to endanger the safety of such aircraft; or

(b) destroys an aircraft in service or causes damage to such aircraft in such a manner as to render it incapable of flight or which is likely to endanger its safety in flight; or

(c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(d) communicates such information which he knows to be false so as to endanger the safety of an aircraft in flight,

shall be liable to life imprisonment.

(2) Whoever unlawfully and intentionally using any device, substance or weapon:

(a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

(b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located therein or disrupts the services of the airport,

if such an act endangers or is likely to endanger the safety at that airport shall be liable to life imprisonment or to such lesser punishment, being not less than imprisonment for three years, as the Court may deem fit.

Offence of committing violence on board an aircraft in flight, etc.

(3) For the purpose of this section “act of violence” means any act which would constitute the offences under sections 211, 212, 214, 216, 217, 218, 220 and 222 of the Criminal Code; or any act whereby an explosion of a nature likely to endanger life, or to cause serious injury to property, is maliciously caused by means of any explosive substance, whether or not any injury to person or property is actually caused; “explosive substance” has the same meaning assigned to it by section 314 of the Criminal Code.

Destruction of, or damage to, air navigation facilities.

20. Whoever unlawfully and intentionally destroys or damages air navigation facilities or interferes with their operation in such a manner as is likely to endanger the safety of the aircraft in flight shall be liable to imprisonment for life.

Jurisdiction.

21. (1) Subject to the provisions of subsection (2), where an offence under section 19 is committed outside Malta, the person committing such offence may be dealt with in respect thereof as if such offences had been committed in Malta.

(2) No court shall take cognizance of an offence punishable under section 19 which is committed outside Malta unless —

(a) such offence is committed on board an aircraft registered in Malta; or

(b) such offence is committed on board an aircraft which is for the time being leased without crew to a lessee who has his principal place of business, or where he has no such place of business, his permanent residence in Malta; or

(c) the alleged offender is a citizen of Malta or is on board the aircraft in relation to which such offence is committed when it lands in Malta or is found in Malta.

Provisions as to extradition.

22. (1) The offences under this Part shall be deemed to have been included as extraditable offences and provided for in all the extradition treaties made by Malta with Convention Countries and which extend to, and are binding on, Malta on the date of commencement of this Act.

(2) For the purposes of the application of the Extradition Act, to offences under this Act, any aircraft registered in a Convention country shall, at any time while that aircraft is in flight, be deemed to be within the jurisdiction of that country, whether or not it is for the time being also within the jurisdiction of any other country.

(3) Where the Extradition Act, does not apply in the case of any foreign State which is a party to the Montreal Convention, or to the Montreal Protocol, the Minister may make an order providing for the Extradition Act to apply in the case of that State with like effect and

subject to like terms and conditions as authorised by sections 4 and 7 of the Extradition Act and, for the purposes of any such order, that Convention and that Protocol shall be equivalent to the designation of a Commonwealth country under the said section 4 and shall be treated as an arrangement such as is mentioned in the said section 7.

(4) Where the Extradition Act applies to any State by virtue only of an order made under subsection (3), no application for extradition by that State shall relate to any extradition crimes within the meaning of the Extradition Act except offences deemed to be included in the list of extradition crimes pursuant to subsection (1).

23. The Minister may, by Order in the Gazette, certify as to who are the contracting parties to the Montreal Convention and the Montreal Protocol and to what extent they have availed themselves of the provisions of the Convention, and any such Order shall be conclusive evidence of the matters certified therein.

Contracting
Parties to
convention.

GENERAL

24. If the Minister by order declares —

(a) that any two or more States named in the order have established an organization or agency which operates aircraft; and

(b) that one of those States has been designated to exercise the powers of the State of registration, or to be considered as the State thereof, in relation to all or any aircraft so operated,

Aircraft
operated by
joint or
international
organization.

then, for the purposes of such provisions of this Act as the order may prescribe, the State so designated or considered under paragraph (b) shall be deemed to be the State in which all aircraft so operated, or (as the case may be) any such aircraft specified in the order, are registered.

25. The Minister may make regulations for the purpose of giving effect to this Act and, without prejudice to the generality of the foregoing, may provide for —

Regulations.

(a) the procedure in assisting an offender to communicate with a representative of the State of which he is a national;

(b) the notification to any foreign State of any matter to be notified under this Act;

(c) the restoration and preservation of control of an aircraft to the commander of the aircraft;

(d) the return of an aircraft and its cargo, after such aircraft and cargo have been unlawfully seized, to any person lawfully entitled to possession;

(e) assisting passengers and crew to continue their journey after the unlawful seizure of an aircraft; and

(f) the holding of any investigation into unlawful or dangerous acts on board an aircraft.

Protection of
action taken
in good faith.

26. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which, in good faith, is done or intended to be done in pursuance of the provisions of this Act.

(2) No suit or other legal proceeding shall lie against the Government of Malta for any damage caused or likely to be caused for anything which, in good faith, is done or intended to be done in pursuance of the provisions of this Act.

Authorisation for
the Ratification
of these
Conventions.

27. In virtue of this Act, the Government of Malta is authorised to ratify the Tokyo Convention, The Hague Convention, the Montreal Convention and the Montreal Protocol.

Passed by the House of Representatives at Sitting No. 555 of the 30th July, 1991.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Acting Clerk to the House of Representatives.