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Law of Ukraine
"On Accountability for Air Transportation of Passengers across the State Border of Ukraine Without Entry Documents Necessary for Entering Ukraine "

(Vidomosti Verkhovnoi Rady (VVR), 2002, No. 16, p. 113)

In accordance with the Convention on International Civil Aviation (995 038, 995 655), this Law establishes accountability of enterprises (their associations), institutions, and organizations regardless of their forms of ownership, engaged in international air transportation of passengers across the state border of Ukraine, for transportation of passengers without necessary entry documents required for entering Ukraine across the state border of Ukraine, and procedures of enforcement of such accountability.

Article 1. Accountability for air transportation of passengers across the state border of Ukraine without entry documents necessary for entering Ukraine

Enterprises (their associations), institutions, and organizations regardless of their forms of ownership, engaged in international air transportation of passengers (hereinafter referred to as the "air carriers"), shall be accountable for transportation across the state border of Ukraine of foreign passengers without necessary entry documents required for entering Ukraine or with documents not meeting requirements prescribed by law of Ukraine shall be liable for payment of fine in amounts equal to from two hundred twenty to two hundred fifty minimal nontaxable amounts of individual income for each such passenger.

Application filed by a foreign passenger or stateless person for grant of refugee's status or asylum in accordance with procedures established by law shall not relieve air carrier from accountability provided for herein for transportation of such passenger across the state border of Ukraine without required documents.

Payment of fine shall not relieve the air carrier from liability to deliver the passenger who has been refused entrance in Ukraine to a place of getting aboard aircraft or any other place to where he/she is allowed to enter.

Article 2. Bodies authorized to consider cases of delinquency

Bodies for guarding the state border of Ukraine shall consider cases of delinquency provided for in article 1 hereof.

The right to consider cases of delinquency and impose penalties on behalf of the bodies for guarding the state border of Ukraine shall be exercised by chiefs of bodies for guarding the state border of Ukraine, which exercise boundary control in border check points on the state border of Ukraine open for international air communication.

Article 3. Delinquency Report

Delinquency report shall be executed by an officer of appropriate body for guarding the state border of Ukraine in charge for exercising boundary control.

The following information should be indicated in the report:

- Date and place of execution of the report;
- Full name and title of the person who has drawn the report;
- Name of air carrier, its legal address, number of bank account, identification code number, date and place of its registration;
- Full name of representative of the air carrier in whose presence the report was executed;
- Full names of witnesses (if available);
- Date and place of delinquency;
- Regulatory legal act stipulating accountability for the delinquency;
- Other information necessary for the case consideration.

The report shall be signed by the person who has drawn it and representative of the air carrier in whose presence the report on delinquency was drawn; the report may as well be signed by witnesses, if available.

In case of refusal to sign the documents from the part of representative of the air carrier, appropriate record should be made. Representative of the air carrier shall be entitled to give explanations and comments concerning content of the report, which should be attached thereto and give reasons for refusal to sign it.

The report shall be made in two copies. The first copy together with other documents relating to the case shall be furnished to the officer authorized to impose fine within three-day term since the date of the delinquency. The second copy shall be handed over to the representative of the air carrier against receipt.

Article 4. Circumstances excluding initiation a case of delinquency

Delinquency proceedings may not be initiated and initiated case shall be closed under the circumstance as follows:

- 1) Absence of an act of delinquency;
- 2) Abrogation of accountability prescribed by this Law;
- 3) Liquidation of the air carrier.

Article 5. Persons participating in consideration of case of delinquency

The following below shall be acknowledged persons participating in consideration of case of delinquency:

- Representative of the air carrier;
- Witnesses;
- Expert;
- Interpreter/translator;
- Attorney.

Article 6. Representative of the air carrier

Case of delinquency shall be considered in presence of representative of the air carrier. In case of absence of the representative, the case can be considered only if appropriate notice has been furnished to the representative in timely manner with clear indication of place and time of

consideration of the case and if no request of deferral of consideration has been received from the representative.

Representative of the air carrier, who participate in consideration of the case, shall be entitled to:

- Get him/herself familiar with relevant materials of the case and make extracts therefrom;
- Give explanations;
- Present evidences and participate in they examination;
- File petitions;
- Resort to legal redress;
- Speak native language and use services of interpreter if he/she does not have knowledge of the language of proceedings;
- Appeal decision on the case in court.

Article 7. Attorney

Attorney can participate in consideration of the delinquency case.

Attorney shall be entitled to:

- Familiarize him/herself with materials of the case;
- File petitions;
- On the instruction of his/her client, lodge complaints concerning decision of the officer of the body for guarding the state border of Ukraine in charge for consideration of the case;
- Have other rights in accordance with law.

Article 8. Witness

Any person deemed to have knowledge of any circumstances to be investigated on the case, can be summoned as a witness in the case of delinquency.

Upon receipt of subpoena issued by the officer in charge for consideration of the case the witness shall:

- Appear at specified time;
- Give truthful explanations;
- Report information known to him/her in respect to the case in question and answer questions.

Article 9. Expert

In order to clarify on and receive explanations on issues arising during consideration of the case requiring special knowledge, officer of the body for guarding the state border of Ukraine should invite an expert.

Expert shall be summoned and appear on subpoena issued by the officer and give objective written conclusion on relevant issues submitted for his/her expertise.

The expert shall be entitled to:

- Familiarize him/herself with materials of the case related to subject of expertise;
- File petitions concerning providing him/her with additional materials necessary for formulating conclusion;

- Be present during consideration of the case;
- Subject to permission of the officer in charge for consideration of the case of delinquency, put questions related to subject of the expertise to air carrier and witnesses.

Article 10. Interpreter

Interpreter shall be appointed by the officer of body for guarding the state border of Ukraine in charge for consideration of the case of delinquency. Interpreter shall appear on subpoena issued by the officer and interpret/translate issues assigned for interpreting/translation fully and correctly.

Article 11. Compensation of expenses to witnesses, experts, and interpreters

Witnesses, experts, and interpreters shall be compensated against expenses incurred by them in relation to appearance before the officer of body for guarding the state border of Ukraine in charge for consideration of the case of delinquency.

Average monthly wage of persons summoned as witnesses, experts, and interpreters shall be preserved at their jobs for the time of their absence due to the necessity to appear before the officer of body for guarding the state border of Ukraine in charge for consideration of the case of delinquency.

Article 12. Decision on case of delinquency

Officer of body for guarding the state border of Ukraine authorized to impose fine shall made appropriate decision during fifteen days upon receipt of delinquency report and other materials of the case. Decision should be formally documented by resolution issued by relevant person.

Officer of body for guarding the state border of Ukraine can make one of the following below decisions on the case of delinquency:

- 1) To fine imposition;
- 2) To close proceedings in the case.

Resolution on closing the case shall be made if circumstances stipulated in article 4 hereof are available.

Decision on the case of delinquency should contain:

- Full name and title of the officer, who approved resolution;
- Date of the case consideration;
- Information concerning the air carrier against which the case was initiated;
- Setting forth circumstances established during the case consideration;
- Indication of a law, which establishes responsibility for committed delinquency;
- Decision made on the case;
- Bank account number and banking institution to where the fine amount can be remitted;
- Instructions concerning procedures and term of appealing the case in court.

Resolution shall be signed by the officer of the body for guarding the state border of Ukraine who considered the case.

Resolution shall be announced immediately after the consideration of the case ends up.

Copy of the resolution on imposition of fine should be handed over or furnished to the air carrier against which it was brought.

Copy of resolution on bringing to accountability of foreign air carrier can be sent through its representation office or authorized representative in Ukraine.

Article 13. Appealing of resolution on fine imposition

Resolution on fine imposition approved by the officer, as specified in Article 2 hereof, can be appealed in during ten days following the effective date of the resolution in a local court at place of location of relevant body for guarding the state border of Ukraine, and decision of such court shall be deemed conclusive.

Appeal shall be filed with the chief of body for guarding the state border of Ukraine, which made decision on the delinquency case, as prescribed by article 1 hereof. Received appeal together with the case shall be submitted to the local court within three days. At the same time, resolution prescribing fine imposition shall be suspended until appropriate decision is made by the court.

Article 14. Execution of decisions on bringing to accountability

Payment of fines imposed in accordance with this Law shall be effected in national currency of Ukraine.

Foreign air carriers can pay fines in foreign currency conversed into Ukrainian currency by exchange rate established by the National Bank of Ukraine on the day of delinquency.

Payment of fine shall be effected by the air carrier, which has been brought to accountability in accordance with this Law during one month from the effective date of decision on fine imposition; in case of appealing the decision on fine imposition, payment should be effected during one month from the date of turning down the appeal by the court.

Fine which has not been paid within the period of time prescribed in paragraph three of this article, shall be enforced in accordance with procedures specified by the Law of Ukraine "On Executorial Proceedings" (606-14).

Collected sums of fines shall enter the State Budget of Ukraine.

Article 15. Final Provisions

1. This Law comes into effect on the date of its publication.
2. Paragraph 16 of Article 7 of the Law of Ukraine "On Frontier Troops of Ukraine" (1779-12) (Vidomosti Verkhovnoi Rady Ukrayiny , 1992, No. 2, p. 7; 1996, No. 37, p. 167) shall be worded as follows:

“16) Consider cases of delinquency, impose fines or submit materials for consideration by other authorized bodies of executive power or courts in cases provided for by laws of Ukraine”.

3. Cabinet of Ministers of Ukraine shall:

- Within three months after the date of publication of this Law, submit to the Supreme Council of Ukraine its proposal concerning introduction of changes in laws of Ukraine arising from this Law;
- Bring its legal regulatory acts in compliance with this Law;
- In accordance with its authority, ensure adoption of legal regulatory acts as provided for in this Law;
- Ensure review and cancellation by ministries and other central bodies of executive power of their legal regulatory acts conflicting with this Law.

L. Kuchma,
President of Ukraine

Kyiv, 10th of January, 2002
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