

**COOPERATION BETWEEN THE INTERNATIONAL
CIVIL AVIATION ORGANIZATION
AND THE EUROPEAN UNION
AVIATION SAFETY AGENCY**

**WSPÓŁPRACA ORGANIZACJI MIĘDZYNARODOWEGO
LOTNICTWA CYWILNEGO Z AGENCJĄ UNII
EUROPEJSKIEJ DS. BEZPIECZEŃSTWA LOTNICZEGO**

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Abstract

International organizations are, in their current legal status, entities of international law that in many respects (e.g. legal and organizational) are equal to states. Their importance increases with their growing position. An important role in shaping current international relations is played by the cooperation between them. An important example of such cooperation is the activity of ICAO with the participation of EASA. Many examples of practical functioning show how important this aspect of the activities of both organizations is and how dynamically and effectively they can achieve their statutory goals thanks to it.

Keywords: international organization, aviation, ICAO, EASA

Abstrakt

Organizacje międzynarodowe to w obecnym stanie prawnym podmioty prawa międzynarodowego, które pod wieloma względami (np. prawno-organizacyjnymi) dorównują państwom. Ich znaczenie wzrasta razem z rosnącą pozycją. Istotną rolę w kształtowaniu obecnych stosunków międzynarodowych odgrywa realizowana współpraca między nimi. Istotnym przykładem takiej współpracy jest aktywność

ICAO przy udziale EASA. Wiele przykładów praktyki funkcjonowania pokazuje, jak ważny jest to aspekt działalności obu organizacji oraz jak pręźnie i efektywnie mogą one osiągać dzięki temu cele statutowe.

Słowa kluczowe: organizacja międzynarodowa, lotnictwo, ICAO, EASA

Introduction

In the modern world, international organizations are, next to states, the most important entities of international law. Their importance increases with their position and the role they play in international relations. Their main goal is the continuous integration of members whose functioning is based on similar assumptions. Currently, it would be difficult to effectively implement individual international policies without participating in international communities.

In the course of the activities carried out by international organizations, cooperation has become increasingly common not only with states, but also with other international organizations. This cooperation usually takes forms in which individual actions could be insufficient for the organization. They usually connect with each other on the basis of goals that were written in the founding act, and thus pursuing similar interests [Kocot 1971, 9].

The aim of this study is to present the issues of the functioning of the International Civil Aviation Organization, with particular emphasis on cooperation and implementation of its own statutory goals in connection with the European Union Aviation Safety Agency. This study uses the historical-legal and legal-comparative method, which allowed for the appropriate interpretation of the statutory provisions and drawing conclusions on their application.

The research problem of this study should be the essence and need for cooperation between an international organization and a specialized agency of the European Union. Is such cooperation justified in the international relations being pursued? Does its establishment pose any difficulties for both parties? Do the effects of this cooperation bring measurable benefits?

1. The International Civil Aviation Organization – genesis

In the 20th century, aviation emerged as a new field of human activity in the air. The use of aircraft was perceived mainly in the state dimension. A change in this approach, as well as the procedure itself, occurred only after the first international flight from France to Great Britain in 1909. This event resulted in a completely new dimension of the use of aviation in a strictly international system, which required the establishment of international legal standards in the field of air navigation. At that time, it was not only about regulating strictly technical regulations, aircraft signs and signals, but also about determining who owns the airspace above the territory of a given country. Until the outbreak of World War I, these problems had not been regulated by the adoption of international legal standards in this area. After the defeat of Germany and its allied countries, in November 1918, a six-month period began during which a ceasefire was in force. During this period, the Peace Commission based in Paris began to work intensively, the aim of which was to prepare peace treaties with the Central Powers. In February 1919, the Aeronautical Commission of the Paris Peace Conference was established.¹ The conference resulted in the creation of the first world aviation convention called the Convention for the Regulation of Air Navigation. Under the provisions of the convention, a permanent international commission was established called the International Commission for Air Navigation. World War II was a period of great development of military aviation, which played a significant role on the fronts of this war, being, next to tanks, the most effective means of combat. Particularly dynamic development of air carriers took place in the USA, Canada and Mexico. The main countries that took part in discussions on post-war solutions in the field of air transport were, on the one hand, the United States, and on the other, Great Britain and its supporter Canada. A very strong impulse to accelerate work on establishing solutions for the post-war order and the manner of using civil aviation was the invasion of Normandy by Allied forces in 1944, which brought the end of the war closer. In connection with these predictions, the US Department of State invited the countries participating in the war with Germany and Japan, as

¹ Journal of Laws 29.6.54 of 1929.

well as neutral countries, to Chicago for the International Civil Aviation Conference, the program of which assumed that its goal would be to establish post-war solutions in the area of the world's airline network, the division of air routes between countries, and the development and adoption of a new aviation convention covering all countries of the world and replacing the Paris Convention of 1919. It was also planned to establish and equip with appropriate competences an international organization that was to exercise control over all world communication in airspace. The conference was held in Chicago in November 1944 and was attended by representatives of 52 countries, including a representative of Poland. Ultimately, the Chicago Conference adopted the Final Act of 7 December 1944, containing, among other things, the Convention on International Civil Aviation.² Under the provisions of the Chicago Convention, delegations of 26 countries established the Provisional International Civil Aviation Organization on June 6, 1945. It operated as an institution until the convention entered into force on April 4, 1947 [Kraśnicka 2019, 5]. On that day, at the request of 26 countries, it was transformed into ICAO [Polkowska 2004, 20-21]. In October of the same year, under agreements approved by the UN General Assembly, it obtained the status of an autonomous international specialized agency of the United Nations [Zajas 2015, 48-49].

2. European Union Aviation Safety Agency – genesis

The need to establish a new entity with management skills emerged very quickly. This entity was to be created and operated on the model of the Federal Aviation Administration in the United States (FAA).³ The new unit was to ensure a uniform, very high level of security in the countries belonging to the then European Community. Such an idea had its *raison d'être* through the integration of entities with common goals and assumptions [Manuhutu 2000, 270].

² ICAO Convention of 7 December 1944, in: *Collection of statutes and regulations of international organizations. Specialized organizations of the United Nations*, Vol. II, Part 2, ed. S. Hubert, Warsaw 1967, p. 715-59, Journal of Laws of 1959, No. 35, item 212 annex, as amended.

³ <https://www.faa.gov/> [accessed: 23.12.2024].

On 10 December 1996, the Recommendation for a Council Decision was adopted to authorise the European Commission to conduct negotiations on the establishment of EASA [Manuhutu 2000, 270].

At the Council meeting held in Brussels on 10-11 December 1997, the issues raised by the document were examined. It was then decided what actions had to be taken to establish the new body. The Committee of Permanent Representatives was asked to prepare the appropriate conditions for negotiations on the establishment of a European organisation tasked with ensuring safety in the civil aviation sector.⁴

In 1997, the idea of establishing a European Aviation Safety Authority emerged, whose task was to develop legal acts and issue certifications.⁵ Then, in 1998, the Council met and it was decided that the European Commission could start negotiations on the creation of an organisation that would be responsible for civil aviation safety.⁶ According to the Council's assumptions, the purpose of EASA was to establish a high, uniform level of safety throughout Europe, by formulating, approving and uniformly applying all necessary aviation safety regulations and promoting it throughout the world. EASA was also to ensure the facilitation of free and fair competition in Europe, the mutual recognition and equal treatment of aeronautical products, parts and equipment and of bodies and persons involved in the design, production, maintenance and operation of products under the conditions and in accordance with the time schedule to be established after the establishment of the new Authority.⁷

In 2000, the Council of the European Union⁸ asked the Commission to submit a proposal for a regulation that would establish EASA. During

⁴ 2059th Council meeting Transport Brussels, 10 and 11 December 1997, https://ec.europa.eu/commission/presscorner/detail/en/PRES_97_389 [accessed: 23.12.2024].

⁵ Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, OJ L 240, 7.9.2002, p. 1-21.

⁶ Corrigendum to the Press Release of the 2108th Council meeting – Transport – Luxembourg, 17-18 June 1998/9551/98 (Presse 207) C/98/207 COR 1 (en).

⁷ Ibid.

⁸ Conseil/00/224, Luxembourg, 26 June 2000/9547/00 (Presse 224), 2279th Council meeting – TRANSPORT – Luxembourg, 26 June 2000, https://ec.europa.eu/commission/presscorner/detail/en/PRES_00_224 [accessed: 31.10.2024].

the aforementioned meeting, it was agreed that the agency would issue standard certificates for aeronautical products. The document emphasized the role of third countries, which should participate in the expert work of the Agency. It would develop principles for the application of environmental standards established by the competent authorities. The Executive Director would make decisions on individual issues related to safety. Nevertheless, the Member States would be entitled to designate national experts to participate in the preparatory work.⁹

In 2000, the Commission again proposed the creation of a Community agency with powers in the field of aviation safety. At the Council meeting in December of that year, the Commission proposal to establish common rules in the field of civil aviation and to create a European Aviation Safety Agency was accepted.¹⁰ On the proposal to establish EASA, the Economic and Social Committee expressed its opinion in 2001, describing the idea of establishing such an entity positively.¹¹

At the Council meeting in 2001, the positive position regarding the regulation establishing EASA was emphasised.¹² In December 2001, the Council¹³ adopted a common position (No. 17/2002),¹⁴ which indicated the content of the regulation taking into account the opinion of the Economic and Social Committee and the amendments formulated by the European Parliament in the first reading. The legislative process resulted in the

⁹ Ibid.

¹⁰ 2324th Council meeting Transport Brussels, 20 and 21 December 2000, https://ec.europa.eu/commission/presscorner/detail/en/PRES_00_470 [accessed: 08.12.2024].

¹¹ Opinion of the Economic and Social Committee on the “Proposal for a Regulation of the European Parliament and of the Council on establishing common rules in the field of civil aviation and creating a European Aviation Safety Agency”, OJ C 221, 7.8.2001, p. 38-44.

¹² 2374th Council meeting – Transport / Telecommunications – Luxembourg, 15 and 16 October 2001, https://ec.europa.eu/commission/presscorner/detail/en/PRES_01_353 [accessed: 08.12.2024].

¹³ 2402nd Council meeting – Agriculture – Brussels, 19 December 2001, https://ec.europa.eu/commission/presscorner/detail/en/PRES_01_475 [accessed: 08.12.2024].

¹⁴ Common Position (EC) No 17/2002 of 19 December 2001 adopted by the Council, acting in accordance with the procedure referred to in Article 251 of the Treaty establishing the European Community, with a view to adopting a Regulation of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, OJ C 58E, 5.3.2002, p. 44-67.

preparation of Regulation No. 1592/2002 on 15 July 2002¹⁵ and the establishment of EASA [Fortońska 2023, 65].

3. Examples of cooperation between ICAO and EASA

ICAO and EASA are the world's leading aviation organizations. Their activities have a close impact on the international community. They pursue common goals and assumptions, striving to ensure safety in civil aviation. In this respect, they undertake a number of joint activities to ensure its appropriate level.

The cooperation of both entities consists of establishing contacts with the European Commission and EASA Member States, in order to coordinate a common, uniform position on issues raised at the global level. EASA also supports its own Member States in the implementation of ICAO standards. An important aspect of mutual cooperation is also the exchange of safety information in order to reduce the burden on Member States. EASA and ICAO have signed a working arrangement, through which they coordinate their audit activities. In this respect, during the inspection of a Member State, EASA can collect evidence necessary for ICAO to confirm its own findings or to assess the level of compliance with ICAO standards.¹⁶

EASA provides technical expertise for ICAO activities. EASA experts participate in 50 ICAO panels, committees, working groups, study groups and task forces. EASA staff are trained as ICAO auditors and participate in audits conducted under the ICAO Global Safety Oversight Audit Programme in EASA States and beyond. The Permanent Representation in Montreal serves as a liaison office with ICAO. It participates in ICAO meetings, informs on EASA policy and regulatory developments and maintains a working relationship on technical matters with the ICAO Secretariat.¹⁷

¹⁵ Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, OJ L 240, 7.9.2002, p. 1-21.

¹⁶ <https://www.easa.europa.eu/pl/light/topics/cooperation-international-civil-aviation-organization-icao> [accessed: 29.12.2024].

¹⁷ The ICAO Universal Safety Oversight Audit Programme (USOAP) focuses on the ability of a State to provide safety oversight by assessing whether the State has implemented the critical elements (CEs) of the safety oversight system effectively and consistently. This enables the State

In addition, EASA currently contributes to the implementation of the “No Country Left Behind” initiative by coordinating technical assistance activities with ICAO and other donors at global and regional levels. EASA also co-chairs the Partnership to Assist in the Implementation of ICAO Aviation Safety Standards.¹⁸

It is also worth noting that EASA plays an important role and actively participates in various aspects of the work programme of the ICAO Committee on Aviation Environmental Protection, which develops and maintains Annex 16 on international standards for aircraft noise and emissions. Once the standards are agreed in ICAO, EASA works with the European Commission to implement them into EU regulations by amending the relevant regulation. EASA operates the ICAO Aircraft Engine Emissions Database. This database contains certified information on aircraft engine emissions provided by engine manufacturers. The frequency of database updates depends on the availability of new data, with the database typically being updated at least once a year.¹⁹

Through its participation in the CAEP working groups, EASA supports the development and maintenance of Standards and Recommended Practices (SARPs), Implementation Elements and Guidance Material for CORSIA and its qualifying emission/fuel units. EASA also actively participates in the ICAO Assistance, Capacity Building and Training Programme for Sustainable Aviation Fuels (ACT-SAF).²⁰

to ensure the implementation of ICAO Safety-Related Standards and Recommended Practices (SARPs) and related procedures and guidance materials. It also provides ICAO with a means to continuously monitor the State’s compliance with its safety oversight responsibilities. <https://www.icao.int/safety/CMAForum/Pages/default.aspx> [accessed: 29.12.2024].

¹⁸ The primary objective of this work is to help ensure that the implementation of SARPs is better harmonized worldwide so that all States have access to the significant socio-economic benefits of safe and reliable air transportation. <https://www.icao.int/about-icao/NCLB/Pages/default.aspx> [accessed: 29.12.2024].

¹⁹ <https://www.easa.europa.eu/en/domains/environment/icao-aircraft-engine-emissions-databank> [accessed: 29.12.2024].

²⁰ This programme was initiated to ensure that States can fully exploit their potential in the development and implementation of SAF, in line with the ICAO “No Country Left Behind” initiative. <https://www.easa.europa.eu/pl/light/topics/cooperation-international-civil-aviation-organization-icao> [accessed: 29/12/2024].

Summary

The functioning of international organizations in the contemporary international community is an important aspect of achieving statutory objectives. Ensuring safety in civil aviation is the goal of both ICAO and EASA. Both entities implement many projects that activate many states and other entities of international law. As the practice of their functioning shows, there are many areas, forms, and activities in which ICAO can implement its statutory objectives in cooperation with EASA. This implementation becomes faster and more effective. Therefore, it should be stated that in the contemporary world, international organizations should cooperate with each other whenever possible and when it brings the intended results for both parties.

Using the historical-legal method, the author would like to point out that the origins of the international organization and the specialized agency are not significant for the tasks they perform. Both entities have a specific catalogue of authorizations, thanks to which they are able to undertake activities by establishing international cooperation. The long-term process of establishing an international organization is its structural element, which influences further political and legal activity. The reasons and goals for which such entities of international law were established influence their further development, not only in terms of integration and economy, but also in terms of planned activity with the participation of other international entities.

The comparative legal method allowed to show the similarities and differences that may occur between an international organization and a specialized agency of the European Union, without affecting the international initiatives they carry out. Both indicated entities were established in a different way, at a different time and for a different reason. They perform a specific scope of tasks and have specific competences. The common denominator for them is the field of legal regulations they deal with. The similarities and differences indicated do not constitute a problem for many established activities and initiatives that they implement together. The examples of cooperation indicated in the text are indispensable proof of how dynamically and effectively the statutory objectives of an international organization can be implemented with the participation of other entities. Their achievement becomes faster, more effective and problem-free.

The application of selected research methods also allows for finding answers to the research theses. It is worth emphasizing that the cooperation established between ICAO and EASA is reflected in the provisions of public international law, and thus in all cases constitutes a justification for the international relations implemented in the field of aviation safety. The establishment of cooperation itself depends only on the will of the two parties represented by their representatives. This is not a difficult process, but it requires reaching an agreement within the given entity in this case. Without a doubt, the indicated examples of activities resulting from the established cooperation bring a number of mutual benefits of an economic, political and cultural nature.

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