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## Non-Governmental Organization (NGO) Participation in Civil Aviation Policy and Decision Making

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**NON-GOVERNMENTAL ORGANIZATION (NGO)  
PARTICIPATION IN CIVIL AVIATION POLICY AND  
DECISION MAKING**

GORAN PETROVIĆ\*

ABSTRACT

This article discusses the role and influence of non-governmental organizations (NGOs) in civil aviation. These organizations represent a way for united citizens to realize some of their global (national) interests, that is, to realize their ideals. NGOs participate in the work of international institutions and cooperate with specialized UN agencies. For the consideration of civil aviation NGOs, which have global coverage, the relationship and influence they achieve in relation to the International Civil Aviation Organization (ICAO) as a specialized agency of the UN is important. The participation of certain NGOs in the work of the Air Navigation Commission (ANC) as one of the key bodies of ICAO is particularly important. The diversity among all considered NGOs is quite large in terms of membership, setting goals, and organizing work.

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However, regardless of the differences, there are also numerous similarities that unite them on many issues and enable them to act together. The work of NGOs to create industrial standards in civil aviation has led to changes in certain aviation regulations, and to the introduction of certain standards thanks to the expert work of NGOs. The interaction of NGOs with the work of the aviation industry is reflected in several segments through safety standards, counseling, the creation of instructions, the exploitation of equipment and devices, ergonomics, and more.

Cooperation with official institutions can sometimes be through forms that are not formal, and the intertwining of activities between NGOs and trade unions as a broader category of non-state actors is neither rare nor unusual in civil aviation. Although the work of NGOs in civil aviation and the influence they have on decision-makers is often criticized, this work should not be underestimated or overestimated.

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#### I. THE ROLE OF NON-GOVERNMENTAL ORGANIZATION (NGOS) IN SOCIETY

UNDOUBTEDLY, THERE IS A demand from a huge number of people to solve certain civil aviation issues in a different way compared to how they are solved officially. In order for this to be achieved, there is much more than interest and commitment. This primarily refers to organization, resources, expertise, etc. The method of solving such questions does not differ at all compared to some other areas. Practically speaking, non-governmental organizations (NGOs) have long been a way for united citizens to realize some of their global or national interests, that is, to realize their ideals. What should be the main advantage of such organizations in easier functioning is related to flexibility, adaptability, small size and expertise.<sup>1</sup>

Although at first glance the term NGO does not raise questions, further analysis suggests it does. Depending on the purpose for which the NGO was founded, its existence can cause conflicting value judgments among many people, whether supporting or totally denying the purpose of the work of such an NGO.

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<sup>1</sup> Sarah Michael, *The Role of NGOs in Human Security* 5, 10 (The Hauser Center for Nonprofit Orgs. & The John F. Kennedy School of Gov't. Harvard University, Working Paper No. 12, 2002), <https://search.issuelab.org/resources/1442/1442.pdf>. [<https://perma.cc/4CQL-Z3LV>].

The history of the term NGO does not directly coincide with the length of existence of certain NGOs and is related to the adoption of the UN charter in 1945. “Before 1945 several different terms were used. In 1910 a group of 132 organizations, which we would now call international NGOs, came together to form the Union of International Associations.”<sup>2</sup> Recognizing the increasing influence of UN NGOs, these organizations found a new way to cooperate with them that is different than the way League of Nations did before.<sup>3</sup> This was done through Economic and Social Council (ECOSOC).<sup>4</sup> Although at the beginning the concept of what NGOs are was not defined, in the later years of ECOSOC’s work principles related to the functioning of NGOs were established.<sup>5</sup> This led to the fact that the United Nations (UN) Department of Public Information (DPI) defines the NGO as “a not-for profit, voluntary citizen’s group that is organized on a local, national or international level to address issues in support of the public good.”<sup>6</sup>

There are many such definitions today, and many institutions define NGOs in their own way.<sup>7</sup> Broadly speaking, NGOs are part of Non-State Actors that can influence decision-makers in their domains. “The kinds of actors that we can classify as Non-State Actors include NGOs, charities, political parties, lobby groups, the media and multinational companies, super-empowered individuals such as ‘oligarchs’, but also terrorist groups and international crime syndicates, as well as diasporas and organized ethnic minorities.”<sup>8</sup> The public perception of all the mentioned Non-State Actors can differ greatly from country to

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<sup>2</sup> PETER WILLETTS, *NON-GOVERNMENTAL ORGANIZATIONS IN WORLD POLITICS* 6 (2011).

<sup>3</sup> See League of Nations Covenant art. 9-15.

<sup>4</sup> Willetts, *supra* note 2, at 7 (“When the UN Charter was finalized, the San Francisco conference agreed to make provision for both intergovernmental organizations and private organizations to have formal relations with the Economic and Social Council (ECOSOC) of the UN.”); *see id.*

<sup>5</sup> *See id.* at 8.

<sup>6</sup> Sally Levery, *NGOs, the UN and APA*, AM. PSYCH. ASS’N, <https://www.apa.org/international/united-nations/publications> (last visited May 12, 2023) [<https://perma.cc/FB83-474C>].

<sup>7</sup> See, e.g., CARMEN MALENA, *Working with NGOs*, THE WORLD BANK 13-14 (1995), <https://documents1.worldbank.org/curated/en/814581468739240860/pdf/multi-page.pdf>.

<sup>8</sup> P. Wijnnga, W. T. Oosterveld, J. H. Galdiga & P. Marten, *State and Non-State Actors: Beyond the Dichotomy*, HAGUE CTR. FOR STRATEGIC STUDIES 143 (2014); *see id.* at 153, 156.

country in terms of their contribution to the betterment of society.

Therefore, NGOs do not have the same importance and recognition in society, and from that point of view, it is not enough for them to be independent from the government. Most often, NGOs are associated with areas such as health, human rights, environmental protection, education, gender equality, and poverty eradication.<sup>9</sup> In addition, the characteristic work of an NGO can be related to participation in the work of certain projects as well as advisory work for certain groups that want to achieve certain goals.<sup>10</sup>

Apart from the aforementioned independence from the government, NGOs should be non-profit organizations.<sup>11</sup> Therefore, the commercial aspect should by no means be the purpose of the NGO's existence. What is often discussed among NGOs in terms of their purpose is the question of moral standards, i.e. whether certain NGOs, from the point of view of morality, deserve to bear such a designation.<sup>12</sup> However, practice has shown the absence of clear 'criteria' on this issue, so it is not possible to establish a single point of view on the so-called 'real' purpose of NGOs.<sup>13</sup>

The UN global organization, through its ECOSOC, has increasingly developed cooperation with the NGO sector over the years, raising cooperation to a higher level. Of course, in addition to not having a commercial character, NGOs must not be associated with criminal activities to cooperate with the UN.<sup>14</sup> In addition to the global activity of NGOs, the regional and national level of activity must not be neglected. The more developed the civil society, the greater the number of NGOs, covering a wide range of areas of interest or shared values. Those interests and shared values may refer to professional, economic, union, status, development, or other issues. This means that organizations of this nature, regardless of whether they act only within national frameworks or globally, will act on the governments of certain countries (or organizations like the EU and UN) if they do not achieve their set goals.

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<sup>9</sup> See *supra* note 6.

<sup>10</sup> See *supra* note 5.

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See *Criticism of NGOs*, GLOBAL CLIMATE (last updated May 23, 2023), <https://www.climate-policy-watcher.org/global-climate-2/criticisms-of-ngos.html>.

<sup>14</sup> See *id.*

NGOs can also differ in their size, where there are organizations that include a large number of members to those that are much smaller.<sup>15</sup> By their action, depending on the level from which they are observed, they are part of broader movements in society, regardless of whether they are part of global or anti-global, progressive or reactionary, or religious or secular.<sup>16</sup>

If it is justified to reconsider the thesis about the ability of NGOs to change world politics, then we can go one level lower.<sup>17</sup> Therefore, it is justified to re-examine the power of NGOs in civil aviation, particularly through their ability to influence decision-makers and above all International Civil Aviation Organization (ICAO). Taking into account the pluralism of interest groups that almost always exist in all areas, then the legitimate question is: whether there are really any chances for the influence of NGOs from civil aviation?

There are many objections to the work of NGO civil aviation that support the thesis that this influence is negligible. There is an objection to the work of NGOs that the decisions of the organizations do not at all confront the official policy or that even the NGOs officially support it. There is also a remark that on the most important issues, such as safety, NGO influence is the smallest, while on low priority issues, that influence is greater. Also, there may be mutual influence between governments and NGOs, but also the possibility that there is a manipulative factor on the part of decision makers. This manipulative factor can exist at various stages, starting with the adoption of a draft of an act (or later) in terms of gaining support from NGOs. Critics of NGO work, in agreement with the objections presented, would previously characterize this as NGO participation without participation, given that no goal was achieved. In all of this, it can be questioned whether the goals of the NGO are objectively set.

However, all of this over simplifies the activities of NGOs. The existence of NGOs in every area of human activity has long been a necessity and it can be considered that “[a] gain in power by nonstate actors does not necessarily translate into a loss of power for the state.”<sup>18</sup> In this way, an NGO should achieve a certain public benefit through representation, service provision or in some other way.

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<sup>15</sup> *See id.*

<sup>16</sup> *See id.*

<sup>17</sup> *See id.*

<sup>18</sup> Anne-Marie Slaughter, *The Real New World Order*, 76 FOREIGN AFFRS.183, 184 (Sep. 1997).

Looking at the overall international system of functioning of international organizations, it is clear that NGOs also play an important role. Through cooperation with government organizations and institutions, NGOs slowly gained their place and the opportunity to achieve their goals and influence. With all that, the forms of that cooperation were very different from forms where NGOs reached a high degree of cooperation with IGOs to forms that were not as strong.<sup>19</sup>

Considering the increasing intertwining of the relationship between governmental and NGOs over the years and the shifting of the boundaries of NGO influence, the question arose whether this consultative relationship could become something more. That is, can the consultative relationship become more formal? The reason for a more formal relationship lies in the common understanding that a formal relationship would bring mutual cooperation to a higher level.

A step higher in the overall relationship through the formalization of the relationship should allow government organizations better access to see what kind of NGOs they actually collaborate with. The path of transparency is a way to see the other party—the NGO—better, compared to the case where there is an informal relationship. Taking into account the diversity of NGOs, organizations should consider whether they really represent relevant associations and groups of people. Then the question arises whether there must be a universal pattern that will formalize relations between government organizations and NGOs,<sup>20</sup> or whether it is possible at all.<sup>21</sup>

When we generally talk about non-state actors and their division in relation to NGOs, we usually mean that difference in relation to the others in terms of their non-commercial activity. That is, most often their activity relates to social or humanitarian

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<sup>19</sup> See, e.g., *Non-Governmental International Organizations Having General Consultative Status with the ILO*, INT'L LAB. ORG., [https://www.ilo.org/pardev/partnerships/civil-society/ngos/WCMS\\_201411/lang-en/index.htm](https://www.ilo.org/pardev/partnerships/civil-society/ngos/WCMS_201411/lang-en/index.htm) (last visited May 12, 2023) [<https://perma.cc/AKE8-SBLA>].

<sup>20</sup> See *Organizations Able to be Invited to ICAO Meetings*, INT'L CIV. AVIATION ORG., <https://www.icao.int/about-icao/pages/invited-organizations.aspx> (last visited May 14, 2023); see *International Chamber of Commerce (ICC)*, WORLD ECON. F., <https://www.weforum.org/organizations/international-chamber-of-commerce-icc> (last visited May 12, 2023) [<https://www.icao.int/about-icao/pages/invited-organizations.aspx>].

<sup>21</sup> See *Organizations Able to be Invited to ICAO Meetings*, INT'L CIVIL AVIATION ORG., <https://www.icao.int/about-icao/pages/invited-organizations.aspx> (last visited May 14, 2023).



issues.<sup>22</sup> However, this division in modern conditions does not fully represent the truth. For example, from the domain of civil aviation an organization such as the International Air Transport Association (IATA) (or for example: the International Chamber of Commerce<sup>23</sup> and the International Chamber of Shipping<sup>24</sup>) or some other transnational corporations (TNCs). Today, there are tendencies to draw a clearer line between NGOs and the commercial and private sectors.<sup>25</sup>

With the establishment of the UN as a global organization and the creation of legal provisions in the UN charter, NGOs made a breakthrough many decades ago in terms of the ability to influence global policy issues. The initial developments were related to ECOSOC and its NGO Committee,<sup>26</sup> which is one of the two standing committees within the work of ECOSOC. It was through the establishment of such a Committee that conditions were created to monitor cooperation with NGOs. Later, with the rise of membership in this Committee, the role was slightly expanded through the consideration of applications and classification of NGOs.<sup>27</sup>

Thus, the granting of consultative status to NGOs by ECOSOC is the first step in participating as observers in sessions, conferences, and meetings. This status can be changed later. Given the evident increasing presence of NGOs in the work of UN bodies, there is a question whether this right is guaranteed. Taking into account the large number of different NGOs that can represent different positions on certain issues, there have been cases when

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<sup>22</sup> See *supra* note 2, at 8.

<sup>23</sup> See *International Chamber of Commerce (ICC)*, WORLD ECON. F., <https://www.weforum.org/organizations/international-chamber-of-commerce-icc> (last visited May 12, 2023) [<https://perma.cc/X4GP-BV3D>].

<sup>24</sup> See Letter from the Int'l. Chamber of Shipping to the Economic and Social Council United Nations, (Oct. 11, 2012) [https://www.un.org/esa/ffd/wp-content/uploads/2014/09/8STM\\_Letter-from-ICS-on-Article8-Transportation-ShippingAspects.pdf](https://www.un.org/esa/ffd/wp-content/uploads/2014/09/8STM_Letter-from-ICS-on-Article8-Transportation-ShippingAspects.pdf) (on file with United Nations) [<https://perma.cc/FUF8-T86U>]; See, e.g., *supra* note 2, at 27 (discussing the Panel's decision to put commercial organizations in a separate category).

<sup>25</sup> See, e.g., *supra* note 2, at 27 (discussing the Panel's decision to put commercial organizations in a separate category).

<sup>26</sup> See Press Release, United Nations, *Non-Governmental Organization Committee Reviewing 564 Requests for Special Consultative Status* (Sep. 7, 2022), <https://press.un.org/en/2022/ngo945.doc.htm> [<https://perma.cc/32MB-FQ55>].

<sup>27</sup> See *How to apply for consultative status with ECOSOC?*, UNITED NATIONS (last visited May 16, 2023), <https://www.un.org/development/desa/dspd/civil-society/ecosoc-status.html>.

NGOs are denied the presence at certain gatherings for purely political reasons.<sup>28</sup>

When considering applications for NGO consultative status, it was presumed that organizations had a formal institutional structure. However, “[i]n practice, the majority of NGOs do not possess the formal policy-making structures required by the Statute, but this has been no barrier.”<sup>29</sup> After accepting an NGO application for consultative status, the Committee determines the NGO’s category. “The NGO Committee has also been responsible for reviewing how the consultative arrangements operate.”<sup>30</sup> Of course, during the years of activity, the expansion of the influence or the number of members may lead to reconsideration of the NGO classification.<sup>31</sup> For instance, the established practice developed in the first decades of the Committee’s initial process changed between 1996 and the third version of the Statute.<sup>32</sup> Thus, other, less formal forms of placing documents and information of importance (interest) for NGOs, via newsletters, leaflets, or the internet, gained importance.

Among other things, the special UN Non-Governmental Liaison Service (NGLS) body is a great help in achieving cooperation between the UN and NGOs. This further improves the existing cooperation and communication channels that exist between the UN and NGOs, where NGOs receive valuable information and advice through bulletin, reports and manuals.<sup>33</sup>

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<sup>28</sup> See Amy Lieberman, For Many Human Rights NGOs, UN Access Remains Out of Reach, DEVEX (Feb. 6, 2020), <https://www.devex.com/news/for-many-human-rights-ngos-un-access-remains-out-of-reach-96516>; see Economic and Social Council Res. 1996/31, art. 60-64 (July 25, 1996) [<https://perma.cc/DDA4-2Z58>].

<sup>29</sup> Willetts, *supra* note 2, at 33.

<sup>30</sup> Willetts, *supra* note 2, at 42.

<sup>31</sup> See *supra* note 13.

<sup>32</sup> See generally Economic and Social Council, Res. 1996/31 (July 25, 1996), <https://www.un.org/ecosoc/sites/www.un.org.ecosoc/files/documents/2020/resolution-1996-31.pdf.996/31>; see UN System Engagement With NGOs, Civil Society, the Private Sector, and Other Actors, United Nations Governmental Liaison Service vii-viii (2005). “Beginning in February 2004, NGLS began producing and disseminating a bimonthly electronic news bulletin entitled the Civil Society Observer.” *Id.* at 233.

<sup>33</sup> See *UN System Engagement with NGOs, Civil Society, the Private Sector, and Other Actors*, UN NON-GOVERNMENTAL LIASON SERVICE 233 (Feb. 2004), [https://unctad.org/system/files/official-document/ngls20052\\_en.pdf](https://unctad.org/system/files/official-document/ngls20052_en.pdf). (Beginning in February 2004, NGLS began producing and disseminating a bimonthly electronic news bulletin entitled the Civil Society Observer) [<https://perma.cc/3YC7-VV6M>].

We can certainly attribute the enabling of NGO participation in the work of the UN forum to further democratization in the field of international law. In fact, it is about the tendency of the increasing presence of NGOs in the work of international institutions indicates a certain degree of democratization of relations, although the role of the state is still indisputable. Such presence can be reflected through various modalities and approaches such as Treaty Negotiation, Treaty making (examples where this was done: The Torture Convention, Landmines Convention,<sup>34</sup> and Rome Statute International Criminal Court), participation in the work of the UN, and advocacy.

When it comes to institutional participation in the making of international law, the forms of participation through the work of the UN can again be seen. Regardless of participation in the work of drafting certain international agreements, the interest in working in UN bodies always exists on the part of NGOs in any permitted form. Even when it comes to the UN General Assembly, whose resolutions are not binding, the possible influence of NGOs on its adoption should not be ignored. Things are significantly different regarding the Security Council where NGOs do not have access. Other types of meetings provide opportunities for participation and the role of NGOs is visibly apparent .

An important detail of the functioning of international law is not only the adoption of regulations but also their implementation. We witness the frequent existence of rules and regulations that are not implemented or are violated. The role of NGOs is often that they initiate certain proceedings before the courts where they believe that a certain right is contested or violated.<sup>35</sup>

From the previously mentioned participation of NGOs in the work of various UN bodies, we will especially look at the influence of NGOs on the work of specialized UN agencies, taking into account that among them is the key organization for the world of civil aviation: ICAO. First, certain UN bodies, programs, offices, specialized agencies may have different agreements with the UN.<sup>36</sup> Membership in specialized agencies does not coincide

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<sup>34</sup> See Ved P. Nanda, *Lawyering for Humanity: The Role of International NGOs*, 19 WILLAMETTE J. INT'L. L. AND DISPUTE RESOL. 256, 286 (2011); see *supra* note 19.

<sup>35</sup> See Mette Eilstrup-Sangiovanni & J.C. Sharman, *Enforcers Beyond Borders: Transnational NGOs and the Enforcement of International Law*, PERSPECTIVES ON POL. 1, 13-14 (July 22, 2019).

<sup>36</sup> See U.N. Charter art. 57, 63.

with the membership of states in the UN,<sup>37</sup> which is a consequence of various conventions and agreements.

Second, there are different modalities of cooperation between specialized UN agencies and NGOs. Considering the rather large diversity in the field of activity and the size of the specialized agency itself, NGOs cooperate more with agencies that have larger budgets and a wider field of activity.<sup>38</sup> Third, the association of NGOs with specialized agencies can also go through subsidies in the sense that certain NGO programs are directly supported by specialized agencies. Finally, cases with specialized agencies aimed at certain standards in the performance of certain activities indicate that there is close cooperation with NGOs representing certain professional associations.

NGOs have a significant influence on specialized UN agencies such as ICAO, but the modalities of cooperation between them vary and can involve different agreements, subsidies, and collaborations with professional associations. It is important to note that membership in specialized agencies does not necessarily coincide with the membership of states in the UN, and the level of cooperation with NGOs may be affected by the diversity in the field of activity and budget of the agency.<sup>39</sup>

## II. CIVIL AVIATION IN GENERAL

Briefing today what civil aviation represents in relation to its beginnings is not an easy task at all. The credit for that belongs above all to the dynamics of development that it experienced as an organized human activity, and as such acquired a special status in relation to military flying. In this way, civil aviation can be defined in many ways and these definitions can be more or less

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<sup>37</sup> See *Member States*, UNESCO <https://en.unesco.org/countries/member-states> (last visited May 12, 2023); Jimena Blumenkron, *On International United Nations Day: ICAO's Role as a Specialized Agency of the United Nations*, INT'L. CIV. AVIATION ORG. (Oct. 24, 2020) <https://unitingaviation.com/news/general-interest/on-international-united-nations-day-icaos-role-as-a-specialized-agency-of-the-united-nations/> [<https://en.unesco.org/countries/member-states>].

<sup>38</sup> See Jens Steffek, *Explaining Cooperation Between IGOs and NGOs—Push Factors, Pull Factors, and the Policy Cycle*, 39 REV. INT'L STUDIES 993, 1006 (2012).

<sup>39</sup> See *id.* at 1007-08.

comprehensive.<sup>40</sup> Accordingly, some define it as commercial air transport, aerial work and general aviation.<sup>41</sup>

In the modern sense, civil aviation is an economic activity that generates enormous income globally.<sup>42</sup> As a global activity, it is also connected with other industries. Thus, civil aviation plays a vital role in the economic system of countries. In simple language: civil aviation enables people around the world to travel privately or on business in a safe, fast and economically acceptable way, as well as to carry out other commercial activities (carrying goods, providing aircraft services, etc.).<sup>43</sup>

Civil aviation developed because of both technological and technical solutions and because it very quickly became internationally regulated.<sup>44</sup> Already in the initial decades of development, after unsuccessful attempts at international regulation with the establishment of ICAO<sup>45</sup> as an umbrella organization, things changed a lot. The creation of such an organization as ICAO created legal frameworks for the further progress of civil

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<sup>40</sup> See Commission Regulation (EC) 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) 2320/2002, art. 3, 2008 O.J. (L 97) 2, 6 (defining civil aviation); Civil Aviation Act 2012, c. 19 (UK), <https://www.legislation.gov.uk/ukpga/2012/19/section/84/enacted?view=plain> (defining civil aviation as civil airports, associated facilities and aircraft using such airports) [<https://perma.cc/ZP5Y-7NQH>].

<sup>41</sup> See *Civil Aviation*, WIKIPEDIA [https://en.wikipedia.org/wiki/Civil\\_aviation](https://en.wikipedia.org/wiki/Civil_aviation) (last visited May 14, 2023) (noting civil aviation includes commercial air transport including scheduled and non-scheduled passenger and cargo flights; aerial work, in which an aircraft is used for specialized services such as agriculture, photography, surveying, search and rescue, etc.; general aviation, including all other civil flights, private or commercial.) [<https://perma.cc/U3L5-24JG>].

<sup>42</sup> See *Revenue of Commercial Airlines Worldwide From 2003 to 2022*, STATISTA (Feb. 3, 2023), <https://www.statista.com/statistics/278372/revenue-of-commercial-airlines-worldwide/> (“Revenue in the global aviation industry grew at a compound annual growth rate of around 5.3 percent between 2009 and 2019, reaching 838 billion U.S. dollars in 2019. The sector’s improved financial performance during this period was driven by the rising number of air cargo operations.”) [<https://perma.cc/4YW5-J9K3>].

<sup>43</sup> See *The Economic Impact of U.S. Civil Aviation: 2020*, FED. AVIATION ADMIN. 5 (Aug. 2022), [https://www.faa.gov/sites/faa.gov/files/2022-08/2022-APL-038%202022\\_economic%20impact\\_report.pdf](https://www.faa.gov/sites/faa.gov/files/2022-08/2022-APL-038%202022_economic%20impact_report.pdf).

<sup>44</sup> See Jinyuan Su, *The Delineation Between Airspace and Outer Space and the Emergence of Aerospace Objects*, 78 J. AIR L. & COM. 355, 357 (2013).

<sup>45</sup> See *History*, INT’L. CIV. AVIATION ORG., <https://www.icao.int/secretariat/technicalcooperation/pages/history.aspx> (last visited May 13, 2023) (By signing the Chicago Convention on December 7, 1944, conditions were created for the establishment of the International Civil Aviation Organization (ICAO), which began operating on April 4, 1947) [<https://perma.cc/56VB-KLZ8>].

aviation, but also for the emergence of new organizations within civil aviation.

At the same time, it is unimportant whether the founders of the respective organizations are the governments of certain countries<sup>46</sup> or NGOs, as well as whether the scope of these organizations is global<sup>47</sup> or regional. Certainly, we should not forget the influence of organizations that operate on the national level. However, since civil aviation is primarily a global activity, far more than some other human activities, civil aviation NGOs operating globally always attract more attention.

In order to be sustainable, the entire system of civil aviation must meet international safety,<sup>48</sup> security,<sup>49</sup> and environmental protection standards.<sup>50</sup> In all of this, there are different interested parties, whether they are governmental, commercial, support stakeholders, NGOs, or security stakeholders. The role and influence of organizations in civil aviation is notable. Regardless of the differences in terms of establishment, the field of activity of civil aviation organizations has been present for many decades and has found its place. An important segment of such organizations is represented by NGOs operating in civil aviation. The focus of this paper will be precisely on the description of the activities and the importance of the work of such organizations in the field of civil aviation.

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<sup>46</sup> JOEP SCHENK, *SECURING EUROPE AFTER NAPOLEON 1815 AND THE NEW EUROPEAN SECURITY CULTURE* 75-94 (B. De Graaf, I. De Haan & B. Vick eds., Cambridge Univ. Press 2019).

<sup>47</sup> See, e.g., George A. Coddling, *The International Telecommunications Union: 130 Years of Telecommunications Regulation*, 23 *DENV. J. INT'L L. & POL'Y* 501, 504 (1995).

<sup>48</sup> See generally ICAO. <https://www.icao.int/safety/security/AVSEC/FAL/training/annex19/Pages/default.aspx>; *Annex 19: Safety Management*, INT'L. CIV. AVIATION ORG. 40 (Sep. 24, 2013) <https://www.icao.int/safety/security/AVSEC/FAL/training/annex19/Pages/default.aspx> (highlighting standards and recommended practices) [<https://perma.cc/UCG4-SURQ>].

<sup>49</sup> See generally, *Annex 17: Security*, INT'L. CIV. AVIATION ORG. (Apr. 2006), <https://www.icao.int/safety/security/AVSEC/FAL/training/annex17/Pages/default.aspx> (highlighting standards and recommended practices) [<https://perma.cc/7J72-CEJH>].

<sup>50</sup> See generally *Annex 16: Environmental Technical Manual*, INT'L. CIV. AVIATION ORG. <https://www.icao.int/environmental-protection/Pages/Annex-16.aspx> (highlighting standards and recommended practices) [<https://perma.cc/W2F4-AXKB>].

### III. SOME RELEVANT NGOS IN CIVIL AVIATION

The following text discusses NGOs that have global coverage and as such achieve different impacts through their engagements in relation to international civil aviation, with special reference to ICAO as a specialized UN agency. In addition, this article reviews, along with a basic overview of the work organization and functioning of those NGOs, their cooperation with other international, regional and national institutions relevant to civil aviation.

There are numerous civil aviation NGOs that cooperate with ICAO. That cooperation is not one-way and is based on ICAO assembly resolution A1-11.11.<sup>51</sup> Notably, there are forty-seven such organizations and as such they can attend meetings in the appropriate bodies of ICAO with the proviso that “ICAO does not classify these as ‘observers’.”<sup>52</sup> Attendance at meetings and sessions is only one of the opportunities for cooperation between ICAO and NGOs, which goes much further through the provision of information and the exchange of documentation. In some cases, the form of cooperation is at the daily level, where the example of cooperation between ICAO, on the one hand, and IATA and IFALPA, on the other hand, is the most impressive.<sup>53</sup>

For the purposes of this work, certain civil aviation NGOs will be treated separately in the rest of the text, with the criterion for such a thing being the organization’s presence in the work of ANC ICAO as a standing observer.

#### A. AIRPORTS COUNCIL INTERNATIONAL (ACI)

The organization ACI<sup>54</sup> was created in 1991 by the merger of the Airport Operators Council International (AOCI) and the International Civil Airports Association<sup>55</sup> (ICAA), where in the following year the name was changed to the current name ACI. This global organization represents the interests of 1,925 air-

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<sup>51</sup> PAUL STEPHEN DEMPSEY & RAM S. JAKHU, ROUTLEDGE HANDBOOK OF PUBLIC AVIATION LAW 30 (2017).

<sup>52</sup> See *Organizations Able to be Invited to ICAO Meetings*, INT’L. CIV. AVIATION ORG., <https://www.icao.int/about-icao/pages/invited-organizations.aspx> (last visited May 14, 2023) [https://perma.cc/JY4K-YLE3].

<sup>53</sup> Dempsey & Jakhu, *supra* note 3, at 31.

<sup>54</sup> See *The Postal History of ICAO: ACI*, AIRPORTS COUNCIL INT’L., [https://applications.icao.int/postalhistory/aci\\_airports\\_international\\_council.htm](https://applications.icao.int/postalhistory/aci_airports_international_council.htm) (last visited May 14, 2023) [https://perma.cc/QH55-9RQF].

<sup>55</sup> *Id.*

ports in 171 states,<sup>56</sup> encouraging cooperation between airports around the world as well as cooperation with relevant aviation and other organizations.

Historically, the organization has its roots in the years after the Second World War when several associations AOCI, WEAA, ICAA were formed.<sup>57</sup> Realizing their limited action, the organizations created a new association with the aim of truly becoming the global voice of this part of the aviation industry.<sup>58</sup> This is how AACCC was created,<sup>59</sup> which moved concrete cooperation with ICAO to a higher level, where AACCC became an observer in the work of the organization.<sup>60</sup> During the 1980s, WEAA ceased to exist, and AOCI and ICAA found a common language in the need to establish a single organization (1991 Airports Association Council International), which in 1992 was named ACI.<sup>61</sup>

The ACI is headquartered in Montreal, Canada and, like other aviation organizations, carries out its activities through the existence of regional representative offices.<sup>62</sup> What primarily preoccupies the cooperation of this organization with others are issues related to security, safety, environment, training and operational efficiency in connection with airports.<sup>63</sup> The increasing cooperation of ACI with ICAO was strengthened even after the establishment of the ACI headquarters in Montreal, which joined a number of organizations that have their headquarters there.<sup>64</sup> ACI has deepened its close cooperation with ICAO through work in the Air Navigation Commission (ANC),<sup>65</sup> and signed a number of agreements<sup>66</sup> with ICAO regarding partici-

<sup>56</sup> *See id.*

<sup>57</sup> *See id.*

<sup>58</sup> *See id.*

<sup>59</sup> *See Airport Group International, ZIPPPIA*, <https://www.zippia.com/airport-group-international-careers-13957/history/> (last visited May 16, 2023) (go to history section) [<https://perma.cc/54RR-FLYA>].

<sup>60</sup> *Id.*

<sup>61</sup> *See supra* note 37.

<sup>62</sup> *See ACI Regions, AIRPORTS COUNCIL INT'L*, <https://aci.aero/about-aci/aci-regions/> (last visited May 14, 2023) (noting the regional offices are: Africa (Casablanca), Asia-Pacific (Hong Kong), Europe (Brussels), Latin America-Caribbean (Quito), North America (Washington DC)) [<https://perma.cc/2V38-X8X5>].

<sup>63</sup> *See supra* note 37.

<sup>64</sup> *See id.*

<sup>65</sup> *See Air Navigation Commission, INT'L CIV. AVIATION ORG.*, <https://www.icao.int/Secretariat/AIR/AIRP/Pages/anc.aspx> (last visited May 14, 2023) [<https://perma.cc/482S-NEAF>].

<sup>66</sup> *See INT'L CIV. AVIATION ORG.*, <https://www.icao.int/Newsroom/Pages/ICAO-and-ACI-formalize-new-training-partnership.aspx>; *see New ICAO/ACI Training Agreement to Heighten Airport Safety, Security and Sustainability*, INT'L CIV. AVIA-



pation in the implementation of various programs<sup>67</sup> and projects.

Apart from the previously mentioned close cooperation with ICAO where it has observer status in ANC, ACI cooperates with a number of relevant civil aviation organizations.<sup>68</sup> Close cooperation with IATA should be highlighted. Such cooperation often leads to joint documents that launch new initiatives or propose solutions that are very often directed towards ICAO.<sup>69</sup> The threats and risks faced by air traffic are a changing category,<sup>70</sup> and therefore the participation in the prevention of them by the relevant organizations is extremely important.

AVSEC is precisely one such program where the use of all available resources comes to the fore, whether they come from ICAO or organizations like ACI and IATA.<sup>71</sup> The programs on which the attention of ACI is directed are also programs related to the airport's efforts to reduce CO<sub>2</sub> emissions,<sup>72</sup> advance smart security,<sup>73</sup> as well as implement APEX.<sup>74</sup>

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TION ORG. (Nov. 23, 2021), <https://www.icao.int/Newsroom/Pages/New-ICAOACI-training-agreement-to-heighten-airport-safety-security-and-sustainability.aspx> [<https://perma.cc/9M6Q-3TT9>].

<sup>67</sup> See *id.*

<sup>68</sup> See, e.g., *IFALPA Participates in ICAO High-Level Conference on Covid-19*, IFALPA (Oct. 22, 2021), <https://www.ifalpa.org/news/ifalpa-participates-in-icao-high-level-conference-on-covid-19/> [<https://perma.cc/W95T-LJQY>].

<sup>69</sup> See, e.g., Allison Lambert & Jamie Freed, *Contact Tracing, Temperature Checks and Masks: Airline Industry Outlines New Norms*, REUTERS (May 12, 2020), <https://www.reuters.com/article/us-health-coronavirus-airlines-airports/contact-tracing-temperature-checks-and-masks-airline-industry-outlines-new-norms-idUSKBN22P08L>.

<sup>70</sup> See *ICAO Council Adopts Unanimous Resolution Condemning MH17 Downing*, INT'L. CIV. AVIATION ORG. (Oct. 28, 2014), <https://www.icao.int/Newsroom/Pages/ICAO-Council-adopts-unanimous-Resolution-condemning-MH17-downing.aspx> [<https://perma.cc/S9UY-MHH2>].

<sup>71</sup> See International Civil Aviation Organization, Annex 17, Chapter I, definitions. [https://www.icao.int/security/Documents/Doc8973/8973\\_cons\\_en.pdf](https://www.icao.int/security/Documents/Doc8973/8973_cons_en.pdf); see also *AVSEC*, INT'L. CIV. AVIATION ORG. <https://www.icao.int/security/isd/av-secpmc/Pages/default.aspx> (last visited May 16, 2023) [<https://perma.cc/JB4A-W83B>].

<sup>72</sup> See *Airport Carbon Accreditation*, AIRPORTS COUNCIL INT'L, <https://aci-lac.aero/apex-in-safety/> (last visited May 14, 2023) ("Airport Carbon Accreditation programme is the institutionally endorsed programme independently assesses and recognises airports' efforts to manage and reduce their CO<sub>2</sub> emissions. Participating airports can be certified at 6 different levels of accreditation") [<https://perma.cc/ZKL8-CFCQ>].

<sup>73</sup> See *Smart Security*, AIRPORTS COUNCIL INT'L, <https://aci.aero/advocacy/security/smart-security/> (last visited May 16, 2023) [<https://perma.cc/XR59-P7H2>].

Certain negative events in civil aviation most often cause joint action by relevant aviation organizations in the form of announcements or taking concrete measures. An example is the crash of Malaysia Airlines Flight 17 (MH17/MAS17) on its flight from Amsterdam to Kuala Lumpur.<sup>75</sup>

Events in previous years related to the emergence of unmanned aircraft systems (UAS)<sup>76</sup> have also attracted attention from ACI, where it sought to harmonize its activities with other relevant aviation organizations.<sup>77</sup> Participation in meetings related to regional projects in Air Traffic Management (ATM) such as the European SESAR<sup>78</sup> also occurred in previous years.<sup>79</sup>

The emergence of COVID-19 and the problems caused in air traffic inevitably affected all ACI member airports. As a global organization, ACI, together with other organizations such as ICAO and IATA, tried to provide a systemic response to the measures that would be immediately implemented and that would follow the aviation industry's recovery.<sup>80</sup>

#### B. CIVIL AIR NAVIGATION SERVICES ORGANISATION (CANSO)

Like other segments of the aviation industry, the segment related to the provision of services in air navigation required a unique organization that would represent their interests. Such an organization did not exist until 1996 and, as stated in the

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<sup>74</sup> See *APEX Peer Assessments*, AIRPORTS COUNCIL INT'L, <https://aci.aero/programs-and-services/apex/> (last visited May 14, 2023) [<https://perma.cc/7Y33-V6CW>].

<sup>75</sup> See *Historical Background*, ICAO, <https://www.icao.int/safety/OPS/OPS-Section/Pages/Historical-background.aspx> (last visited May 14, 2023) (noting the creation of ATTF by IATA after the Malaysia Airlines crash).

<sup>76</sup> See *Unmanned Aerial Systems (UAS)*, SKYBRARY, <https://www.skybrary.aero/articles/unmanned-aerial-systems-uas> (last visited May 14, 2023) [<https://perma.cc/ARF4-FUY2>].

<sup>77</sup> See, e.g., ACI, IATA & IFAPLA, *Safety Awareness for Users of Remote Piloted Aircraft in Close Vicinity of Airports 2* (Feb. 2020), <https://www.iata.org/contentassets/8c2566421a524258896e89aceb739333/safety-awareness-for-rpa-users-joint-statement.pdf>.

<sup>78</sup> See *generally Delivering the Digital European Sky*, SESAR JOINT UNDERTAKING, <https://www.sesarju.eu/about-us> (last visited May 15, 2023) [<https://perma.cc/JG86-KBAM>].

<sup>79</sup> See *Consolidated Annual Activity Report 2019*, SESAR 44, 155 (2020), <https://www.europarl.europa.eu/cmsdata/216895/SESAR%20JU%20Consolidated%20Annual%20Activity%20Report%202019%20web%20version.pdf>.

<sup>80</sup> See Press Release, International Air Transport Association, *IATA Continues to Support Aviation's Recovery with Key Safety and Sustainability Initiatives* (Sep. 27, 2022., <https://www.iata.org/en/pressroom/2022-releases/2022-09-27-3/>) [<https://perma.cc/S9MZ-H3W8>].

preamble of the CANSO charter, was the purpose of CANSO's establishment.<sup>81</sup>

Changes in the aviation industry, its growth in the past decades, inevitably affected air navigation services. The functioning of organizations that provided these types of services used to be exclusively related to state authorities. In accordance with different requirements, things began to change slightly in the last three decades, so that now, apart from corporatized Air Navigation Service Provider(s) (ANSPs), there are also those that are wholly<sup>82</sup> or partially privatized.<sup>83</sup>

Although it includes slightly more than half of ANSPs in the world, CANSO members provide services for 85% of air traffic.<sup>84</sup> The organization's goals, as outlined in the Charter, focus on safety, efficiency and effectiveness, industry support, products and services, customer focus, advocacy, recognition, and delivering value.<sup>85</sup>

Membership in CANSO is tied to full membership that includes ANSPs but excludes organizations that exclusively provide airport air traffic control services, Communication Navigation and Surveillance (CNS) providers, and unmanned aircraft services.<sup>86</sup> In addition, intermediate and associate membership are also possible.<sup>87</sup> The General Meeting is a key body alongside the Executive Committee. The regional system of organization is allowed through the existence of five regions.<sup>88</sup> In accordance with the needs of the region, the Executive Committee takes care of the overall implementation of their activities. Although CANSO cooperates with numerous aviation organizations, it should be emphasized that CANSO, through its ob-

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<sup>81</sup> See CANSO Charter pmb., <https://canso.fra1.digitaloceanspaces.com/uploads/2014/10/CANSO-Articles-of-Association-Edition-19-2020.pdf> [https://perma.cc/S55P-EGX8].

<sup>82</sup> See *About Us*, NAV CAN., <https://www.navcanada.ca/en/corporate/about-us.aspx> (last visited May 15, 2023) [https://perma.cc/CWM8-S26L].

<sup>83</sup> See *Single European Sky (SES)*, NATS, <https://www.nats.aero/about-us/> (last visited May 15, 2023) [https://perma.cc/8M9Y-3AR8].

<sup>84</sup> See *CANSO - Civil Air Navigation Services Organization*, INT'L. CIV. AVIATION ORG., [https://applications.icao.int/postalhistory/canso\\_civil\\_air\\_navigation\\_services\\_organisation.htm](https://applications.icao.int/postalhistory/canso_civil_air_navigation_services_organisation.htm) (last visited May 14, 2023).

<sup>85</sup> See *supra* note 56, at 2.

<sup>86</sup> See CANSO Charter art. 3.

<sup>87</sup> See *id.* at art. 3.

<sup>88</sup> See *The Civil Air Navigation Services Organization*, AIRPORT SUPPLIERS, <https://www.airport-suppliers.com/supplier/canso/> (last visited May 15, 2023).

server status in ICAO, has the ability to influence the achievement of its goals.

Those goals often coincide with other civil aviation NGOs, so this provides the opportunity to act together within the framework of a forum or on the occasion of an event (IATA, ACI and CANSO) in the world of civil aviation.<sup>89</sup>

Apart from the previously mentioned General Meeting and Executive Committee, CANSO carries out its activities through other committees including: Safety Standing Committee (SSC), Policy Standing Committee (PSC) and Operations Standing Committee (OSC).<sup>90</sup> Of course, there are also *ad hoc* bodies that are formed as needed to solve specific tasks, where a whole network of experts is engaged in cooperation with decision makers.

Part of the problem in air traffic management is the fragmentation of the airspace where CANSO tries to provide certain solutions through agreements on cooperation, like the provision of cross-border services.<sup>91</sup> Cooperation in the area of conflict zones is particularly important, as huge shortcomings have been shown in the past years.<sup>92</sup>

The subject of interest are issues of safety,<sup>93</sup> new technologies,<sup>94</sup> and environmental protection.<sup>95</sup> It is calculated that the improvement in ATM can contribute significantly to the reduction of harmful carbon emissions so that ANSP would provide aircrafts with the best routes and the most efficient flight profile.

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<sup>89</sup> See, e.g., Press Release, Int'l. Civ. Aviation Org., International Civil Aviation Organization, ICAO Council Adopts Unanimous Resolution Condemning MH17 Downing, news release (Oct. 28, 2014), <https://www.icao.int/Newsroom/Pages/ICAO-Council-adopts-unanimous-Resolution-condemning-MH17-downing.aspx> [<https://perma.cc/8M9Y-3AR8>]; ICAO Council, C-DEC 203/1, Attachment.

<sup>90</sup> See Rafael D. L. Quezada, *CANSO Operations Standing Committee*, CIV. AIR NAVIGATION SERVICES ORG. (May 2019) (listing the safety standing committee, operations standing committee, and strategy & integrations standing committee).

<sup>91</sup> Niels Van Antwerpen, *Cross-Border Provision Of Air Navigation Services With Specific Reference To Europe: Safeguarding Transparent Lines Of Responsibility And Liability* 185, 197 (2007) (Dissertation, University of Lieden).

<sup>92</sup> See, e.g., *supra* note 61, (accident with downing discussing Malaysia Airlines plane crash in 2014) (MH17/MAS17).

<sup>93</sup> See *ANSPs View on Safety Issues*, CIV. AIR NAVIGATION SERVICES ORG. (June 21, 2021), <https://www.easa.europa.eu/community/system/files/2021-06/CANSO.pdf>.

<sup>94</sup> See *generally Emerging Technologies for Future Skies*, CIV. AIR NAVIGATION SERVICES ORG., <https://canso.org/publication/emerging-technologies-for-future-skies-artificial-intelligence/> [<https://perma.cc/L5JC-YCAT>].

<sup>95</sup> See *Green ATM*, CIV. AIR NAVIGATION SERVICES ORG., <https://canso.org/our-focus/canso-greenatm/> (last visited May 20, 2023) [<https://perma.cc/N268-2W4Z>].

There are also noise issues where ANSP depended on national solutions that should eventually improve. CANSO, on the other hand, strives to ensure that ANSPs do not fall behind in relation to improvements introduced by airport and airline operators through their activities.

As a permanent observer in the work of the ANC since the practical beginning of the UAS Study Group, CANSO gives its opinion in relation to the use of UAS. Working on joint documents with other civil aviation NGOs is something that CANSO has recognized as an interest and has been doing for a long time. Through its regional activities, “CANSO European Region leads CANSO’s policy and lobbying input into the European Union bodies (Commission, Parliament, Council), EUROCONTROL, European Aviation Safety Agency (EASA), SESAR Joint Undertaking and the SESAR Deployment Manager.”<sup>96</sup> Further, in an attempt to make its influence sustainable, CANSO also cooperates with trade union organizations such as European Transport Workers’ Federation (ETF) and Air Traffic Controllers European Unions Coordination (ATCEUC).<sup>97</sup>

### C. FLIGHT SAFETY FOUNDATION (FSF)

The FSF was founded in 1947 as the first organization that focused its activities primarily on safety in civil aviation. In fact, the organization was initially founded by Richard Crane in 1945 and soon merged with another organization, Aircraft Engineering for Safety (AES),<sup>98</sup> whose founder was Jerome F. “Jerry” Lederer.<sup>99</sup>

Therefore, it is a non-profit international organization dedicated primarily to the public interest, such as the safety of civil aviation. However, the scope of the organization’s work has been significantly expanded, as it performs advisory and educational roles; provides expertise; and issues publications. The or-

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<sup>96</sup> *Canso Europe Region*, CIV. AIR NAVIGATION SERVICES ORG., (2020, [https://canso.fra1.digitaloceanspaces.com/uploads/2020/06/CANSO\\_Regional\\_Brochure-Europe-2020.pdf](https://canso.fra1.digitaloceanspaces.com/uploads/2020/06/CANSO_Regional_Brochure-Europe-2020.pdf)) [<https://perma.cc/DC5H-LAHN>].

<sup>97</sup> See, e.g., AEUTUC, CANSO & ETF, *Toolbox for Successful Social Dialogue in Air Traffic Management* (2016), <http://www.atceuc.org/uploads/docs/brochure-atceuc-canso-etf-toolbox-march-2016.pdf> [<https://perma.cc/DC5H-LAHN>].

<sup>98</sup> The same name as FSF, for the study of human factors in the design of aircraft cockpits. See Richard T. Crane, FLIGHT SAFETY FOUNDATION, <https://flightsafety.org/foundation/founders/richard-crane/> (last visited May 21, 2023) [<https://perma.cc/8XF4-S24A>].

<sup>99</sup> See *id.*

ganization carries out its activities in numerous countries<sup>100</sup> and through cooperation with other aviation organizations.<sup>101</sup>

According to the FSF's own definition, the foundation's mission is to connect, influence, and lead global aviation safety through several key objectives. These include the development of safety standards, the provision of independent technical assistance, the dissemination of safety information, the impartial resolution of community issues, the sharing of leading practices, the global representation of the industry, and the facilitation of safety solutions.<sup>102</sup>

Through the signing of agreements and memoranda on cooperation, the FSF has formalized many types of cooperation.<sup>103</sup> Joint work with organizations such as ICAO led to a series of agreements to share information and confront positions in terms of promoting safety in global aviation. Working closely with ICAO, the FSF has also been involved in activities related to training and expertise, as well as issues such as gender equality in civil aviation.<sup>104</sup>

Of course, FSF closely cooperates with other civil aviation NGOs.<sup>105</sup> An example of cooperation with ACI is the risk of runway incursion,<sup>106</sup> which is a common problem that produced

<sup>100</sup> See *The Flight Safety Foundation*, INT'L. CIV. AVIATION ORG., [https://applications.icao.int/postalhistory/icao\\_and\\_the\\_flight\\_safety\\_foundation.htm](https://applications.icao.int/postalhistory/icao_and_the_flight_safety_foundation.htm) (last visited May 21, 2023) [<https://perma.cc/3HHD-HS5K>].

<sup>101</sup> See *id.*

<sup>102</sup> See *Flight Safety Foundation (FSF)*, SKYBRARY, <https://skybrary.aero/articles/flight-safety-foundation-fsf> (last visited May 21, 2023) [<https://perma.cc/K75L-WFQX>].

<sup>103</sup> See, e.g., *ICAO and Flight Safety Foundation Sign Agreement to Promote Safety*, INT'L. CIV. AVIATION ORG. (Nov. 20, 2012) <https://www.icao.int/Newsroom/Pages/ICAO-and-Flight-Safety-Foundation-Sign-Agreement-to-Promote-Safety.aspx> [<https://perma.cc/2WCN-XF2C>].

<sup>104</sup> See Press Release, African Airlines Association (AFRAA), AFRAA and Flight Safety Foundation Sign MOU for Collaboration to Enhance Safety of the Air Transport Industry in Africa (Sep. 12, 2022), <https://www.afraa.org/press-release-afraa-and-flight-safety-foundation-sign-mou-for-collaboration-to-enhance-safety-of-the-air-transport-industry-in-africa/> [<https://perma.cc/3EK4-5NRX>].

<sup>105</sup> See *Airports Council International (ACI) World and Flight Safety Foundation (FSF) Sign Memorandum of Cooperation*, TRAVEL INDUSTRY WIRE (Aug. 2, 2019), <https://www.travelindustrywire.com/article106474.html> [<https://perma.cc/FNE8-PDS4>].

<sup>106</sup> See *New Guidance on Preventing Runway Excursions Released by FSF, Partners, Flight Safety Foundation*, FLIGHT SAFETY FOUNDATION (May 5, 2021), <https://flight-safety.org/new-guidance-on-preventing-runway-excursions-released-by-fsf-partners/> [<https://perma.cc/39XN-BLC4>].

one of the worst accidents in aviation.<sup>107</sup> Broadly speaking, the cooperation is directed towards raising safety awareness in aviation organizations in their basic parts. In this regard, frontline operators and the exchange of information coming to and from them are important. That is exactly why the creation of safety culture,<sup>108</sup> and its integral part just culture,<sup>109</sup> are important segments that FSF strongly supports. Communication, coordination, exchange of information, as well as representation of interests as needed in matters of aviation safety are the way of work of the FSF.

For 75 years, a priority of FSF was, among other things, the safety of flight operations during take-off and landing. For these needs, a task force (TF) was formed that would take care of the reduction of controlled flight into terrain (CFIT) by closely cooperating with the organizations ICAO and IATA. Later, the action expanded through the focus on Approach and Landing Accidents (ALAs), which finally led to the extension to approach and landing accident reduction (ALAR). Aviation operators are included in the Basic Aviation Risk Standard (BARS) program initiated in 2009, which includes elements: a Risk Based Standard, the Audit Program, and training and data analysis.

By working in such a way, many differences that actually exist in terms of safety in different regions of the world were bridged. Increasing the number of its members around the world as well as the countries they come from, the FSF has positioned itself globally.

Organizationally, FSF is headquartered in Alexandria, Virginia (US), and currently has one regional office in Melbourne, Australia. The Board of Directors is headed by the chairman.<sup>110</sup> In addition to him, there are four other permanent directors as

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<sup>107</sup> RUWANTISSA ABEYRATNE, AIR NAVIGATION LAW 116 (2012).

<sup>108</sup> See M. C. Noort, T. W. Reader, S. Shorrock & B. Kirwan, *The Relationship Between National Culture and Safety Culture: Implications for International Safety Culture Assessments*, 89 J. OCCUPATIONAL & ORGANIZATIONAL PSYCH. 515, 515 (2016) (noting “safety culture refers to the norms, values, and practices shared by groups in relation to risk and safety”).

<sup>109</sup> See *Just Culture*, SKYBRARY, <https://www.skybrary.aero/articles/just-culture> (last visited May 20, 2023) [[https://perma.cc/CT72-GCWH#:~:text=H\\_rtps%3A//perma.cc/CT72%2DGCWH](https://perma.cc/CT72-GCWH#:~:text=H_rtps%3A//perma.cc/CT72%2DGCWH)].

<sup>110</sup> See *The Flight Safety Foundation Board of Governors*, FLIGHT SAFETY FOUNDATION, <https://flightsafety.org/about-fsf/board-of-directors/> [<https://flightsafety.org/about-fsf/board-of-directors/>] (last visited May 20, 2023) [<https://perma.cc/39XN-BLC4>].

well as an auditor appointed by the chairman. According to available data, the organization's income is about \$15.7M with slightly more than 100 employees.<sup>111</sup>

#### D. INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

Although formed at the conference in Havana in 1945,<sup>112</sup> the IATA is the successor of the Air Traffic Association, which was founded in 1919.<sup>113</sup> The difference of a little more than twenty years caused crucial differences, since IATA was founded and covered a far greater number of countries from which air carriers came.<sup>114</sup> Also, the prerogatives that the organization received right from the start far exceeded those of the Air Traffic Association.

The basic idea behind the establishment of this private association (NGO) was to protect primarily the commercial interests of airline companies, which had expressed reservations in relation to the Chicago Convention. First, it was necessary to establish appropriate tariffs on the basis of which airlines would perform their services. Second, by deciding that the association gathers only regular carriers, it was necessary to create a business environment where companies will not violate the tariff regime and where business will be conducted in a transparent manner. Taking care of the documents that were supposed to be unified also played a big role. The scope of IATA's interest did not end here, but expanded over time to safety, training, and cooperation with other relevant aviation organizations.

Although the IATA is not an organization like ICAO which represents an intergovernmental organization where it has a special status as a specialized agency of the UN, its influence in the world of civil aviation is unquestionable. However, its activities are narrower and primarily focused on the commercial part.

In this regard, IATA has regulated this matter over the years and through its "Resolutions" documents. In fact "IATA began work on charters as early as 1947 and the adoption of Resolution 045 served as a model for both ICAO as well as attempts by

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<sup>111</sup> See *Flight Safety Foundation*, OWLER, <https://www.owler.com/company/flightsafetyfoundation> (last visited May 20, 2023) [<https://perma.cc/ZV2U-Q9K>].

<sup>112</sup> ELMAR GIEMULLA AND LUDWIG WEBER, *INTERNATIONAL AND EU AVIATION LAW*, KLUWER LAW INTERNATIONAL, 2011, 112.

<sup>113</sup> John C. Leslie, *International Air Transport Association: Some Historical Notes*, 13 J. INTERAMERICAN STUDIES & WORLD AFFS. 319, 325 (1971).

<sup>114</sup> *Id.* at 320.



the individual states to define nonscheduled services.”<sup>115</sup> In fact, the resolutions themselves could have included and extended some issues related to the charter contract. It was important to save such resolutions from the possibility of different interpretations by the members, where the insufficiently clear concept of “common interest” (affinity) was not violated. It was precisely the different interpretation that led to certain disturbances and abuses in the matter of charter transportation by regular carriers.<sup>116</sup>

### 1. Membership

In accordance with its charter, IATA membership includes only air carriers (operators) that perform regular air traffic. This means that an entire body of carriers is not part of IATA’s nonscheduled membership. However, this is not the case with cargo carriers as it is possible for them to be members of IATA.<sup>117</sup> The Articles of Association document, Article V defines the rules related to membership.<sup>118</sup>

IATA was created in accordance with two documents: the Act of Incorporation and Articles of Association.<sup>119</sup> Unlike the Act of Incorporation, which is essentially a framework document, the Articles of Association functions more like a statute of the organization and defines the rules of IATA’s functioning.

Structurally speaking, the two main bodies of IATA are the general meeting and the executive committee known as the “Board of Governors.”<sup>120</sup> The General Assembly meets once a year, where all members have the right to participate and vote. Although according to the Articles of Association, General Meetings should represent the supreme body, in reality the Board of Governors has far greater decision-making power. This board has very broad powers and consists of thirty members.<sup>121</sup> The CEO of the organization is the director general and his duty is to report to the Board of Governors on his work.

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<sup>115</sup> Jerrold Scutt & Frank. J. Costello, *Charters, The New Mode: Setting a New Course for International Air Transportation*, 39 J. OF AIR L. & COM., 1, 14 n. 36.

<sup>116</sup> *See id.*

<sup>117</sup> *See* IATA Articles of Association art. V.

<sup>118</sup> *See* IATA Articles of Association art. I-XIV.

<sup>119</sup> *Id.* at art. II.

<sup>120</sup> *Id.* at art VIII.

<sup>121</sup> *See Membership of the Board of Governors*, IATA (Apr. 16, 2023), <https://www.iata.org/contentassets/01e197ea66384f27a9e763d151ae2d7d/board-membership.pdf>.

To improve functioning, IATA has other bodies that work on different bases. First of all, there is a secretariat for better alignment and coordination.<sup>122</sup> There are also various commissions that submit recommendations to the board of directors. They cover a wide range of issues, from internal decisions and policies to decision-making that can be used to influence the governments of certain countries. There are two committees: the Chair Committee and the Audit Committee. The members of the committee are managers in airline companies. In addition, there are nine commissions within IATA with the task of advising the Board of Governors on a professional level.<sup>123</sup>

The functioning of IATA can be seen through its performance as a trade association and as a tariff coordinator. Working as a trade association comes down to harmonizing the measures by which industry operates with what state governments implement. Practically, the entire system of lobbying and information, and presentation of ideas to decision-makers at the government level is carried out in order for the organization to achieve its goals. Such activities also spread to intergovernmental organizations, and are especially aimed at ICAO.

One of the key issues that IATA has been dealing with for years is the issue of tariffs. Practically speaking in a commercial sense this is vital, as any disruption would cause tectonic changes in the airline industry. That is why the coordination of air fares is such an important matter that is agreed upon at carrier conferences.

The conference approach to solving tariff issues is something that has already been seen before in the maritime sector.<sup>124</sup> However, this approach requires the airlines, with consent from the countries' governments, reach an agreement and determine the tariffs. Regardless, IATA has gained a strong position and, in previous decades, was considered a cartel,<sup>125</sup> which was often criticized. In IATA there are three types of conferences: Tariff coordination conference, services conference, and agency con-

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<sup>122</sup> See Rule 8, Section IV — Secretariat, in Rules of Procedure for General Meetings Section IV, Rule 8, <https://www.iata.org/contentassets/01e197ea66384f27a9e763d151ae2d7d/rules-of-procedure-general-meetings.pdf>.

<sup>123</sup> See *IATA Corporate Governance Structure*, IATA, <https://www.iata.org/en/about/corporate-structure/#tab-3> (last visited May 20, 2023).

<sup>124</sup> See William Sheehan, *The IATA Traffic Conferences*, 7 Sw L. J. 135, 153-54 (1953).

<sup>125</sup> See Warren W. Koffler, *IATA: Its Legal Structure—A Critical Review*, 32 J. AIR L. & COM. 222, 222 (1966).

ferences. Moreover, each conference has its own committees that are assisted in their work by the secretariat.

A significant part of IATA's commercial work is done through work with travel agencies as major users of air transportation services. Charging for services and settlement between carriers and agents has greatly facilitated the system's functioning and is done through IATA. The IATA Clearing House in London is in charge of ensuring the smooth flow of huge amounts of money circulating between carriers, travel agencies, and ground handlers.

With its way of working over the decades, IATA has imposed a series of business standards in the airline industry that greatly impacted consumers and other airlines around the world. Notwithstanding the criticism it has been exposed to for many years the organization has found a way to adapt to the demands of the times.<sup>126</sup>

2. *The influence of IATA on the work of ICAO and the adoption of Standards and Recommended Practices (SARPs)*

Looking at the work of IATA without the work of ICAO would leave a gap. Practically since the beginning of their work, the two organizations have a strong cooperation that comprehensively shows how a civil aviation NGO affects the work of the civil aviation umbrella organization.

Given that it is a specialized UN agency that takes care of the international welfare of civil aviation, one of the most important tasks of ICAO's duties is, among other things, to adopt new technical and technological standards and recommended practices. Adopting Standards and Recommended Practices (SARPs) is complex and involves a series of actions.<sup>127</sup> In addition to the ICAO competent bodies, certain relevant NGOs from the world of civil aviation can play an important advisory role in the development of SARPs. Those organizations are known as standing observers.

The IATA organization illustrates the connection that exists in the functioning of both ICAO and IATA organizations. The extent to which there is mutual monitoring of work is best ex-

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<sup>126</sup> See, e.g., J. A. Hannigan, *Unfriendly Skies: The Decline of the World Aviation Cartel*, 25 PAC. SOCIO. REV. 107, 124 (1982).

<sup>127</sup> Chicago Convention on International Civil Aviation, art. 37, para. 1 (1944).

emplified by the work of the IATA operational committee, which coordinates its agenda before meeting with ICAO.<sup>128</sup>

Just the opportunity to propose certain amendments, supplements, or new SARPs alongside member states and ICAO-authorized bodies speaks volumes about the deep involvement of an organization such as IATA in the work of ICAO. With the opportunity to give their feedback after the revision of the SARP-proposal, IATA has more than enough time to analyze all possible issues and make their observations that may concern them as an organization. This shows how carefully this consultative (advisory) relationship is taken into consideration. This also requires the ICAO to have a serious explanation for every decision in this process. Of course, the organization itself will be expected to do the same through the submission of documentation, analysis, and expertise.

Without access to relevant information by ICAO, the IATA would not function properly. Only on the basis of the right to attend meetings, and access documents and information can the IATA act in a timely manner and in accordance with the proclaimed goals of the organization and in connection with the adoption of SARPs. Notably, IATA does not have the right to vote within the sessions, but the fact that they attend and participate in the discussion already has a special weight. All this significantly contributes to greater transparency in the work where private organizations and governmental organization are intertwined, and where decision-makers must take into account the argumentation that comes in this case from IATA.

### 3. *Safety and security initiatives*

Safety, one of the primary matters in aviation, must be discussed with an organization such as IATA.<sup>129</sup> Considering the composition of the members represented by IATA, the logical question that arises is how security affects all these airlines.

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<sup>128</sup> See Lasantha Hettiarachchi, *The Quasi-Regulatory Regime of the International Air Transport Association (IATA) and its Impact Upon the Airline Industry and Consumer* 58, (2018, McGill University).

<sup>129</sup> See INTERNATIONAL CIVIL AVIATION ORGANIZATION, ANNEX 19 TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION: SAFETY MANAGEMENT 1-2 (2d ed. 2016), 4th ed. (Montreal: International Civil Aviation Organization, 2018), chap. 1, "Definitions".

Thus, IATA tries to cover safety in the widest possible way through its programs and audits.<sup>130</sup>

In this regard, IATA also took an active role by launching a program called IATA Operational Safety Audit (IOSA).<sup>131</sup> When the program was launched, existing members of IATA were obliged to conduct a safety audit at a future period, while future members were obliged to apply the program as a condition for membership in IATA. Today, IOSA can be spoken of as an industry standard, which in fact has its connection with ICAO Annexes 1, 6 and 8. Of course, compliance with SARPs has priority over programs such as the Universal Safety Oversight Audit Program (USOAP) or IOSA.<sup>132</sup>

IOSA, which represents an upgrade in security, brings a different approach that is more focused on the security risks for each individual airline than a general approach. In this sense, it should represent an improvement in overall safety of the member airlines with the cooperation of the organization itself with the regulators.

The IATA also focuses on improving airline security every year. Since the first attempted hijacking (terrorist attack) in civil aviation,<sup>133</sup> many changes, regulatory and technical, have taken place in this domain. There have also been events that have shown that aircraft can be used as a means of terrorism and caused rapid actions in the matter of security.<sup>134</sup> All of this re-

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<sup>130</sup> See *Safety Audit Programs*, IATA <https://www.iata.org/en/programs/safety/audit/> (last visited May 24, 2023); *IATA Safety Audit for Ground Operations*, IATA, <https://www.iata.org/en/programs/ops-infra/ground-operations/isago/> (last visited May 24, 2023); *IATA Fuel Quality Pool*, IATA, <https://www.iata.org/en/programs/ops-infra/fuel/ifqp/> (last visited May 24, 2023); *IATA De-Icing/Anti-Icing Quality Control Pool*, IATA <https://www.iata.org/en/programs/ops-infra/ground-operations/daqcp/> (last visited May 24, 2023) [<https://perma.cc/NH28-7KSK>].

<sup>131</sup> See *IATA Operational Safety Audit*, SKYBRARY, <https://www.skybrary.aero/articles/iata-operational-safety-audit> (last visited May 24, 2023) (noting that IOSA was launched in 2003 as a global safety assessment process among member airlines) [<https://perma.cc/M9F3-QC6H>].

<sup>132</sup> See *Frequently Asked Questions About USOAP*, INT'L. CIV. AVIATION ORG., <https://www.icao.int/safety/CMAForum/Pages/FAQ.aspx> (last visited May 24, 2023) ("The Universal Safety Oversight Audit Programme (USOAP) is a programme through which ICAO monitors the fulfillment of the safety oversight obligations by its Member States.") [<https://perma.cc/6CHZ-XXM7>].

<sup>133</sup> See William Clifford, *How to Combat Hijacking*, AUSTL. INST. CRIMINOLOGY 4 (1977).

<sup>134</sup> See NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES, THE 9/11 COMMISSION REPORT (2004), <https://www.govinfo.gov/content/pkg/GPO-911REPORT/pdf/GPO-911REPORT-3.pdf>; see also *The Creation of the USAP*, INT'L. CIV. AVIATION ORG., <https://www.icao.int/Security/USAP/Pages/The-Cre->

sulted in the current way of functioning of the system of checking passengers and goods that are transported on a different basis, which requires a much greater involvement of manpower, technology, and, ultimately, security information in order to prevent negative events.<sup>135</sup>

Therefore, new security standards were established, which required changes in Annex 17, as well as the participation of state governments and other subjects in the aviation industry. Of course, everything resulted in additional efforts for passengers in terms of earlier arrivals at airports precisely because of these security measures.

IATA has dedicated its work on security in conflict zones. Considering the constant existence of certain conflict zones around the world, the negative impact on civil aviation is substantial. Considering the events in this matter, IATA expresses its concern for the operators and undertakes certain initiatives that would prevent some future unwanted events.<sup>136</sup> Work in the Safe Skies Consultative Committee is one of those ways,<sup>137</sup> but IATA also collects data on conflict zones with security risks for operators.<sup>138</sup> There is also GAsEP and related contributions, which contribute to IATA's security goals.<sup>139</sup>

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ation-of-the-USAP.aspx (last visited (May 24, 2023) [<https://perma.cc/RJ7K-L7SY>]).

<sup>135</sup> See *The Universal Security Audit Programme Continuous Monitoring Approach (USAP-CMA) and its Objective*, INT'L. CIV. AVIATION ORG., <https://www.icao.int/Security/USAP/Pages/default.aspx> (last visited May 24, 2023) [<https://perma.cc/V4Y9-6953>].

<sup>136</sup> See, e.g., *MH17 Incident*, NETH. GOV'T, <https://www.government.nl/topics/mh17-incident> <https://www.government.nl/topics/mh17-incident> (last visited May 24, 2023) [<https://perma.cc/5SK2-2YQE>].

<sup>137</sup> See *Safer Skies Consultative Committee*, IATA, <https://www.iata.org/en/programs/security/safer-skies-committee/> (last visited May 24, 2023). Committee on the Safety of Air Navigation (CSAN) of the International Civil Aviation Organization (ICAO) is Chairing the Safer Skies Consultative Committee (SSCC), which was established to ensure that continued progress is made toward mitigating the risks posed by conflict zones on a global level. It is composed of subject-matter experts from key states, organizations and industry partners. See Government of Canada, Global Affairs Canada, *The Downing of Flight PS752 in Iran*, [https://www.international.gc.ca/world-monde/issues\\_development-enjeux\\_developpement/response\\_conflict-reponse\\_conflits/crisis-crisis/flight-vol-ps752.aspx?lang=eng](https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/response_conflict-reponse_conflits/crisis-crisis/flight-vol-ps752.aspx?lang=eng).

<sup>138</sup> See *AVSEC Insight*, IATA, <https://www.iata.org/en/services/statistics/avsec-insight/> (last visited May 21, 2023) [<https://perma.cc/6JW6-PE37>].

<sup>139</sup> See ICAO Doc 10118 GLOBAL AVIATION SECURITY PLAN, INT'L CIV. AVIATION ORG. 1-1 (2017), <https://www.icao.int/Security/Documents/GLOBAL%20AVIATION%20SECURITY%20PLAN%20EN.pdf> <https://www.icao.int/Security/Documents/GLOBAL%20AVIATION%20SECURITY%20PLAN%20EN.pdf>.

#### 4. *Environmental protection*

The importance of environmental protection and the participation of airline operators in these actions has been recognized by the IATA. As with other industries, where the basic problems are located, the aviation industry quickly identified its problems, primarily related to emissions of harmful gases, the existence of noise or some other problems. The organization itself has divided its action policy according to the issues of solving environmental protection problems according to several areas.<sup>140</sup>

In order to work as efficiently as possible in the fight to preserve the environment, IATA established The Sustainability and Environment Advisory Council (SEAC).<sup>141</sup> The SEAC's task is to "advise the IATA Board and Director General on matters related to the sustainable development of aviation and its interface with the environment."<sup>142</sup> The work of SEAC is further divided between three working groups that provide technical support on certain basic issues.<sup>143</sup>

Various programs have been established in which the IATA works independently, with relevant organizations, or in cooperation with regulators to eliminate problems related to environmental protection. Fly net zero is one such program that envisages the maximum elimination of environmentally unacceptable fuel, replacing it with more efficient fuel and changing the technologies of their use.<sup>144</sup> All this should be part of the fight against global warming of the planet, that is, unwanted climate change.

#### 5. *Training*

As IATA itself points out by defining its mission as "[t]o provide the right competence to the right people, in the right format." The importance of training personnel who are already or are just becoming aviation professionals is clear. A large number

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<sup>140</sup> See *Sustainability & Environment Advisory Council*, IATA, <https://www.iata.org/en/about/corporate-structure/seac/> (last visited May 21, 2023) [<https://perma.cc/7AT7-5SLT>].

<sup>141</sup> *See id.*

<sup>142</sup> *Id.*

<sup>143</sup> *Id.*

<sup>144</sup> See *Commitment to Fly Net Zero*, AVIATION BENEFITS BEYOND BORDERS, <https://aviationbenefits.org/flynetzero/> (last visited May 21, 2023) [<https://perma.cc/H3QC-J2PX>].

of trainees undergo numerous IATA courses every year.<sup>145</sup> In addition to conducting courses independently, there are also numerous graduate courses that IATA conducts in cooperation with relevant respected institutions (academic partner universities and colleges).<sup>146</sup> These are courses whose facilitators are from the aviation industry and reflect the real requirements and needs of the industry in the best possible way. This makes it less likely that the courses will be anachronistic or out of date. Therefore, it is not surprising that a variety of areas are covered by the courses, such as air navigation services; airline business management; airline operations and quality; airport planning and operations; cargo and logistics; civil aviation authorities; dangerous goods regulations; the environment; fares and ticketing; finance and accounting; ground operations; law and regulations; management and leadership; safety; sales and marketing; security; and travel and tourism.

Like all parts of the aviation industry, COVID 19 has had a very negative impact in the past period and on the issue of training. A large number of aviation professionals have lost their jobs in the past period, and an equally large number of them have not been able to maintain their knowledge and skills associated with their licenses. The re-establishment of knowledge and skills is one of the tasks in which all relevant aviation institutions in the world, including IATA, must accomplish through their training programs.

#### E. INTERNATIONAL BUSINESS AVIATION COUNCIL (IBAC)

Although it is not as widespread as regular air traffic, the influence of business aviation should not be ignored.<sup>147</sup> In recent decades, modern business trends have also affected this segment

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<sup>145</sup> See *Courses & Diplomas*, IATA, <https://www.iata.org/en/training/courses/> <https://www.iata.org/en/training/courses/> (last visited May 21, 2023) [<https://perma.cc/8C77-LG46>].

<sup>146</sup> See *IATA—Embry-Riddle US Aviation Law Diploma*, IATA, [https://www.iata.org/en/training/courses/diploma\\_programs/iata-embry-riddle-us-aviation-law-diploma/90/](https://www.iata.org/en/training/courses/diploma_programs/iata-embry-riddle-us-aviation-law-diploma/90/) (last visited May 21, 2023) [<https://perma.cc/5BVM-7HBF>]. Certain courses are done in collaboration with universities. See *id.*

<sup>147</sup> See *IBAC Definition of Business Aviation*, EUROPEAN BUS. AVIATION ASS'N, <https://www.ebaa.org/app/uploads/2018/01/About-business-aviation-.pdf> (last visited May 24, 2023) (“That sector of aviation which concerns the operation or use of aircraft by companies for the carriage of passengers or goods as an aid to the conduct of their business, flown for purposes generally considered not for public hire and piloted by individuals having, at the minimum, a valid commercial pilot license with an instrument rating.”) [<https://perma.cc/A92P-Y7FK>].



of civil aviation, and the interest of associations that deal with the protection of the interests of their members needed to be articulated.

First, the SARPs contained in ICAO Annex 6 Operation of Aircraft, Parts, I, II and III cover all segments of business aviation.<sup>148</sup> Likewise, the protection of interests from the domain of business aviation was carried out through the establishment of The International Business Aviation Council (IBAC),<sup>149</sup> which managed to acquire observer status in ICAO.<sup>150</sup>

This gave business aviation the ability to protect its interests, having far greater flexibility and the ability to reach locations that are not accessible by regular traffic.<sup>151</sup> All this in a more cost-effective way, while respecting safety standards, got the opportunity to protect its interests. In an effort to implement the highest possible standards in business aviation, IBAC introduced two programs: the International Standard for Business Aircraft Organization (IS-BAO) Program and the International Standard for Business Aircraft Handlers (IS-BAH) Program.<sup>152</sup>

The IS-BAO Program brings the Safety Management System (SMS) to organizations that are small operators.<sup>153</sup> Many operators are included in this program, and through it the IBAC achieved numerous cooperations with aviation authorities and EASA.<sup>154</sup>

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<sup>148</sup> Commercial (ICAO Annex 6 –Part I & III), Corporate (ICAO Annex 6 –Part II & III), Owner Operated (ICAO Annex 6 –Part II & III), Business Aviation –Fractional Ownership (ICAO Annex 6 –Part I,II & III).

<sup>149</sup> See *International Business Aviation Council*, SKYBRARY, <https://www.skybrary.aero/articles/international-business-aviation-council-ibac> (last visited May 24, 2023) [<https://perma.cc/XT35-AK22>].

<sup>150</sup> See *IBAC History*, INT'L BUS. AVIATION COUNCIL, <https://ibac.org/about-ibac/ibac-history> (last visited May 24, 2023) [<https://perma.cc/KP2B-R2AX>].

<sup>151</sup> See *ANC Talks: How does business aviation contribute to economic and societal development?*, INT'L CIV. AVIATION ORG., <https://unitingaviation.com/news/general-interest/anc-talks-how-does-business-aviation-contribute-to-economic-and-societal-development/> (last visited May 21, 2023) [<https://perma.cc/NFT9-9DQ7>].

<sup>152</sup> See *International Standard for Business Aircraft Operations (IS-BAO)*, NAT'L BUS. AVIATION ASS'N, <https://nbaa.org/flight-department-administration/sms/is-bao/> (last visited May 21, 2023) [<https://perma.cc/HR8N-3JXZ>].

<sup>153</sup> See *id.*

<sup>154</sup> See, e.g., *EASA Reaffirms IS-BAO Use for TCO Authorization*, NAT'L BUS. AVIATION ASS'N (Aug. 8, 2018), <https://nbaa.org/aircraft-operations/international/europe/european-union-eu-third-country-operator-tco-resources/easa-reaffirms-bao-use-tco-authorization/>.

With the introduction of the IS-BAH program, it was possible to create an industrial standard based on the SMS. Working on this program, IBAC supported the work of ICAO through the existence of the ICAO Ground Handling Task Force (GHTF). Thus, like other relevant NGOs in civil aviation, IBAC provides its expert knowledge by sharing the best possible burst in reaching new standards that can be applied in business aviation. One of the ways of accomplishing these tasks is by participating in the work of various ICAO committees<sup>155</sup> as well as making proposals in the drafting of ICAO documents.<sup>156</sup>

In the previously mentioned document, Annex 6 ICAO, Part II, the ICAO Secretariat used the help of organizations like IBAC together with IAOPA in terms of further standardization of general aviation related to the harmonization of terminology and definitions related to RNP and RNAV in the area with PBN. In addition, there is participation in the work on certain manuals.<sup>157</sup> Specifically, in late 2016 and early 2017, IBAC participated in a study conducted by ICAO, together with IATA and CANSO, which concerned the assessment of aircraft operations near conflict zones.<sup>158</sup>

The importance of staff training is not neglected in the work of IBAC either. Through workshops and webinars, staff training is available through the SafetyNet<sup>159</sup> program, which aims to provide interested users with additional knowledge related to the ISBAO and ISBAH programs.<sup>160</sup> Through care for environmental protection, IBAC tries to make its contribution in which business aviation tries to reduce the negative impact on the envi-

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<sup>155</sup> See, e.g., *Committee on Aviation Environmental Protection (CAEP)*, INT'L CIV. AVIATION ORG., <https://www.icao.int/environmental-protection/pages/caep.aspx>.

<sup>156</sup> See Int'l Bus. Aviation Council [IBAC], *Keeping Business Flying Around the World*, at 3, <https://ibac.org/files/documents/Brochure%202021.pdf>.

<sup>157</sup> See, e.g., Int'l Civ. Aviation Org. [ICAO], *Risk Assessment Manual for Civil Aircraft Operations Over or Near Conflict Zones*, at vii–viii, ICAO Doc. 10084 (2d ed. 2018), <https://store.icao.int/en/risk-assessment-manual-for-civil-aircraft-operations-over-or-near-conflict-zones-doc-10084>.

<sup>158</sup> *Id.*

<sup>159</sup> See *IBAC SafetyNet*, GoTo STAGE, <https://www.gotostage.com/channel/44582357acee417f877573b8a3a3906f>.

<sup>160</sup> *IBAC Adds to Successful SafetyNet Webinar Series*, NAT'L BUS. AVIATION ASS'N (Nov. 11, 2021), <https://nbaa.org/flight-department-administration/sms/ibac-adds-to-successful-safetynet-webinar-series/>.

ronment by reducing gas emissions by coordinating its actions with other relevant aviation organizations.<sup>161</sup>

The multifaceted action of IBAC is also reflected in the effort to direct the influence and interests of the organization toward producers and service providers. Thus, the organization's starting point of view was greatly expanded compared to the initial ones that were aimed at business aviation associations.

#### F. INTERNATIONAL COUNCIL OF AIRCRAFT OWNER AND PILOT ASSOCIATIONS (IAOPA)

This nonprofit organization, it can be safely said, has been protecting the interests of more than 400,000 pilots around the world who have flown in general aviation for many decades.<sup>162</sup> The organization began its interim status in 1962<sup>163</sup> and was already accredited by ICAO<sup>164</sup> in 1964. The very existence of general aviation and the protection of their interests is something that is quickly recognized by all relevant actors in international aviation. Practically, IAOPA as an association of national general aviation organizations<sup>165</sup> represents eighty-two such organizations worldwide.<sup>166</sup>

From an organizational point of view, IAOPA operates through the World Assembly, which is held regularly once every two years, and the governing body is the Executive Board.<sup>167</sup> In the headquarters of the organization in Frederick, Maryland, there is a Secretariat headed by the appointed Secretary Gen-

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<sup>161</sup> See *Carbon Offsetting and Reduction Scheme for International Aviation (CORSA)*, INT'L CIV. AVIATION ORG., <https://www.icao.int/environmental-protection/CORSA/Pages/default.aspx>.

<sup>162</sup> STEPHEN K. CUSICK, ANTONIO I. CORTÉS, AND CLARENCE C. RODRIGUEZ, *COMMERCIAL AVIATION SAFETY* 616 (McGraw Hill ed., 6th ed. 2017).

<sup>163</sup> *IAOPA - International Council of Aircraft Owner and Pilot Associations*, THE POSTAL HIST. OF ICAO, [https://applications.icao.int/postalhistory/iaopa\\_international\\_council\\_of\\_aircraft\\_owner\\_and\\_pilot\\_associations.htm](https://applications.icao.int/postalhistory/iaopa_international_council_of_aircraft_owner_and_pilot_associations.htm).

<sup>164</sup> *Id.*

<sup>165</sup> See Int'l Council Aircraft Owner & Pilot Ass'ns [IAOPA], *Constitution and Bylaws*, at 87 (Jan. 14, 2019), <https://iaopa.aopa.org/-/media/IAOPA-Constitution-and-Bylaws.pdf>.

<sup>166</sup> *Id.*

<sup>167</sup> See *Union of International Associations, International Council of Aircraft Owner and Pilot Associations (IAOPA)*, UNION OF INT'L ASS'NS, <https://uia.org/s/or/en/1100034009https://uia.org/s/or/en/1100034009https://uia.org/s/or/en/1100034009> (last visited May 15, 2023).

eral.<sup>168</sup> In addition to the Secretariat, there are also regional offices headed by IAOPA Vice-Presidents.<sup>169</sup>

Through the set goals, the organization's activities are focused on actions that facilitate, coordinate, integrate, advance, and encourage general aviation at the international level.<sup>170</sup> All this is in cooperation with relevant organizations such as ICAO, WMO, ITU, etc.<sup>171</sup> Of course, the work of such an organization does not leave out the national organizations and aviation authorities of individual countries.

### 1. Cooperation with ICAO

Nevertheless, representing the interests of its members, IAOPA directs most of its activities toward the umbrella organization of civil aviation, ICAO.<sup>172</sup> It can be said that it dates back to the very beginnings of IAOPA's work in the '60s of the last century.<sup>173</sup> Already at that time, many initiatives were launched, some of which were related to the facilitation of general aviation flight operations in terms of better information with aviation information.<sup>174</sup> There were certainly changes in Annex 6 that directly related to general aviation.<sup>175</sup>

Improving the possibility of using general aviation was the work of the IAOPA to change the strict regulations related to the organization of airspace, that is, which users can use certain parts of it. In this regard, IAOPA managed to exert influence in that direction: a certain part of the airspace primarily used for instrument flight rules (IFR) flights is changed and allowed for access to visual flight rules (VFR) flights.<sup>176</sup> Later, everything was improved through a change in the technology of the flight controls, which refers to VFR flights.

Considering the large number of IAOPA members and the number of pilots represented, part of the work in the standardi-

<sup>168</sup> *History*, IAOPA, <https://iaopa.aopa.org/about-iaopa/history>.

<sup>169</sup> *Id.*

<sup>170</sup> *Accomplishments*, IAOPA, <https://iaopa.aopa.org/about-iaopa/accomplishments>.

<sup>171</sup> *Id.*

<sup>172</sup> *See id.*

<sup>173</sup> *Id.*

<sup>174</sup> *See id.*

<sup>175</sup> Int'l Civ. Aviation Org. [ICAO], *ICAO Definition of Business Aviation*, <https://www.ebaa.org/app/uploads/2018/01/About-business-aviation-.pdf>.

<sup>176</sup> Int'l Civ. Aviation Org. [ICAO], *Annex 2 to the Convention on International Civil Aviation: Rules of the Air*, at 4-1 (10th ed. 2005), [https://www.icao.int/Meetings/anconf12/Document%20Archive/an02\\_cons%5B1%5D.pdf](https://www.icao.int/Meetings/anconf12/Document%20Archive/an02_cons%5B1%5D.pdf).

zation of personnel licensing in ICAO Annex 1 did not remain outside the focus of the organization itself. Working in panel groups established by ICAO provided opportunities for IAOPA to present its views and adequately represent the interests of general aviation pilots.

An area that certainly affects general aviation operations is aeronautical meteorology, an area that IAOPA also continuously expresses interest in making possible improvements.<sup>177</sup> Work in working groups dealt with improving the provision of meteorological services<sup>178</sup> for users of general aviation, specifically weather forecasts and meteor reports.

Interest in modern trends in aviation, initiatives, and plans presented through the highest ICAO forums are also subjects that occupy the work of IAOPA. IAOPA is a member of many committees established by ICAO and makes its adequate contribution to their work.<sup>179</sup> As an indispensable part of current developments in aviation and the ever-widening application of UAS,<sup>180</sup> ICAO's potential impact on general aviation has not gone unnoticed by IAOPA, all with the purpose of better regulation and use of airspace by an increasing number of users.<sup>181</sup>

## 2. Working with National Aviation Authorities

Like other organizations of this type, working with the national aviation authorities in order to achieve the organization's goals is an essential part of its activities. Representing the interests of such a large membership of pilots that IAOPA has is not an easy task and requires a great deal of engagement in cooperation with legislators and aviation authorities. In fact, what is be-

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<sup>177</sup> *Accomplishments*, *supra* note 170.

<sup>178</sup> World Meteorological Org. [WMO], *Commission for Aeronautical Meteorology: Abridged Final Report of the Seventh Session, Res. 3 (CAeM VII) - Working Group on the Provision of Meteorological Information Required Before and During Flight*, at 14, WMO No. 602 (1982), [https://library.wmo.int/doc\\_num.php?explnum\\_id=8425](https://library.wmo.int/doc_num.php?explnum_id=8425).

<sup>179</sup> IAOPA is a member of the Aeronautical Mobile-Satellite Service Panel (AMSSP). See Int'l Civ. Aviation Org. [ICAO], *Manual on the Aeronautical Mobile Satellite (Route) Service*, at I-1-3, ICAO Doc. 9925-AN/475 (1st ed. 2010), [http://www.aviationchief.com/uploads/9/2/0/9/92098238/icao\\_doc\\_9925\\_-\\_manual\\_on\\_amss-route\\_-\\_1st\\_edition\\_-\\_2011.pdf](http://www.aviationchief.com/uploads/9/2/0/9/92098238/icao_doc_9925_-_manual_on_amss-route_-_1st_edition_-_2011.pdf) (“[T]he Air Navigation Commission established in 1988 the Aeronautical Mobile Satellite Service Panel, to develop the SARPs and related guidance material based on the CNS/ATM concept developed by FANS”).

<sup>180</sup> RUWANTISSA ABEYRATNE, STRATEGIC ISSUES IN AIR TRANSPORT: LEGAL, ECONOMIC AND TECHNICAL ASPECTS 123 n.364 (2012).

<sup>181</sup> RUWANTISSA ABEYRATNE, MEGATRENDS AND AIR TRANSPORT: LEGAL, ETHICAL AND ECONOMIC ISSUES 22 (2017).

ing tried through the advocacy activity is to influence the decision makers related to the relevant aviation regulations, which would reduce the possible negative impact of the regulations on the pilots. Negativity can also be manifested through certain policies implemented by aviation authorities (safety, security, privatization of air traffic control, etc.), and it is important to exert influence in those areas, especially when these policies are overcome in practice. Here, we can take as an example the case from the United States, which refers to the attempt to privatize air traffic control<sup>182</sup> by the state. Namely, in that case, the subsidiary of IAOPA from the United States, AOPA, opposed the intention to privatize ATC in the United States and led an active campaign against it.<sup>183</sup>

Although pilot representation is one of the more important jobs, this job is not the only job of representation. In addition to the above, there are also representations directed towards the airports themselves and ANSP as important parts of the infrastructure used operationally by IAOPA members. Unfavorable conditions for the use of this infrastructure can greatly complicate the work of the GA, and the work of representing the interests of the IAOPA membership is also expressed in this sense.

#### G. INTERNATIONAL FEDERATION OF AIR LINE PILOTS' ASSOCIATIONS (IFALPA)

Soon after the foundation and the start of the work of the ICAO organization in order to protect the professional interests of the pilot community as well as a means of influence in the world of civil aviation, IFALPA was born. IFALPA was founded by thirteen pilots' associations at a conference in London, with one of the primary objectives directed towards the adoption of future standards and recommended practices by ICAO.<sup>184</sup> IFALPA in today's sense represents the umbrella organization of

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<sup>182</sup> See Ross W. Neher, *ATC Privatization: A Solution in Search of a Problem*, 83 J. AIR L. & COM. 521, 522 (2018) (The case where the IAOPA subsidiary from the USA AOPA opposed the intention to privatize ATC in the USA.)

<sup>183</sup> Sam Raymer, *The AOPA Opposes Air Traffic Control Privatization*, MEDIUM (June 13, 2018), <https://medium.com/@SamRaymer/the-aopa-opposes-air-traffic-control-privatization-9765685df83c>.

<sup>184</sup> See *IFALPA - International Federation of Air Line Pilots' Associations*, THE POSTAL HIST. OF ICAO, [https://applications.icao.int/postalhistory/ifalpa\\_international\\_federation\\_of\\_air\\_line\\_pilots\\_associations.htm](https://applications.icao.int/postalhistory/ifalpa_international_federation_of_air_line_pilots_associations.htm)[https://applications.icao.int/postalhistory/ifalpa\\_international\\_federation\\_of\\_air\\_line\\_pilots\\_associations.htm](https://applications.icao.int/postalhistory/ifalpa_international_federation_of_air_line_pilots_associations.htm) (last visited May 15, 2023).

airline pilots in the world, protecting their professional interests, while promoting safety in civil aviation as well as cooperation with all interested parties. This cooperation includes governmental and non-governmental organizations as well as the entire aviation industry.

In order to join an organization such as IFALPA, it is necessary that the national organization that gathers the airline pilots harmonizes the provisions of its statute with the provisions of the IFALPA statute.<sup>185</sup> In principle, as with other associations of this type in relation to an individual state, IFALPA accepts one association per country.<sup>186</sup> Structurally, IFALPA consists of an Executive Board (President, Deputy President, Executive Vice-President Technical & Safety Standards (EVP TSS), Executive Vice-President Administration, Membership & Finance, Executive Vice President Professional & Government Affairs (EVP PGA), Executive Vice-President South America (SAM), Executive Vice-President Europe (EUR), Executive Vice-President Africa & Middle East (AFI/MID), Executive Vice-President Asia & Pacific (APAC), Executive Vice-President Caribbean & North America (CAR/NAM)).<sup>187</sup> The Executive Vice-Presidents are also the heads of IFALPA's regional representative offices, and there are five of them in total.<sup>188</sup>

For the more efficient functioning of the organization, IFALPA established eleven standing committees that enable professional work in certain areas of interest to the organization, where advice and recommendations are provided to the Executive Board and member associations. Administratively, the organization is managed by the Secretariat staff, and the headquarters of the organization is in Montreal, Canada.<sup>189</sup> Among other things, IFALPA expands its deliberations

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<sup>185</sup> See *Member Associations*, IFALPA, <https://www.ifalpa.org/member-associations/>.

<sup>186</sup> *Id.*

<sup>187</sup> *Executive Board*, IFALPA, <https://www.ifalpa.org/about-us/executive-board/>.

<sup>188</sup> *Regional Representation*, IFALPA, <https://www.ifalpa.org/about-us/regional-representation/>.

<sup>189</sup> See Christoph Schewe, *Association Spotlight – International Federation of Air Line Pilots' Associations (IFALPA)*, INT'L CONG. & CONVENTION ASS'N (Sept. 18, 2017), <https://www.iccaworld.org/articles/post/association-spotlight-international-federation-of-air-line-pilots-associations-ifalpa/>. <https://www.iccaworld.org/knowledge/article.cfm?artid=532>.

with the help of publications: journals<sup>190</sup>, briefing leaflets, position papers, safety bulletins, external publications, etc. The General Assembly is held once a year, where representatives of IFALPA member associations discuss key issues related to the pilot profession, further development and achievements, as well as cooperation with relevant civil aviation organizations.

An organization of professionals, such as IFALPA representing airline pilots, monitors the safety of operations with particular attention. IFALPA demonstrates a high-level of professionalism, among other things, through its code of ethics:

The International federation of Airline Pilots Associations (IFALPA) has a code of ethics for airline pilots which stipulates *inter alia* that a pilot will not knowingly falsify any log or record nor will he condone such action by other crew members. Furthermore, the code requires the pilot to keep uppermost in his mind that the safety, comfort, and well-being of the passengers who entrust their lives to him are his first and greatest responsibility.<sup>191</sup>

#### 1. *Influence on the Work of ICAO and Other Governmental Organizations*

IFALPA, together with organizations like IATA, has managed over the decades to have a significant influence on the work of ICAO, especially through a body like ANC.<sup>192</sup> Essentially, “[i]n some cases, such as IATA and IFALPA, they participate in ICAO’s work on a day-to-day basis, in line with ICAO’s policies in Assembly Resolution A1-11.”<sup>193</sup> IFALPA’s close work with ICAO is visible in several forums, and although primarily focused on operational-technical issues, it is far more than that. IFALPA participates in various committees,<sup>194</sup> working groups,<sup>195</sup> and various panels and meetings.<sup>196</sup>

<sup>190</sup> InterPilot is the publication issued by IFALPA. See *InterPilot Library*, IFALPA, <https://www.ifalpa.org/interpilot-library/>.

<sup>191</sup> RUWANTISSA ABEYRATNE, COMPETITION AND INVESTMENT IN AIR TRANSPORT: LEGAL AND ECONOMIC ISSUES 64–65 (2016).

<sup>192</sup> See John Perkinson, *IFALPA Affiliation Makes ALPA Stronger*, ALPA (Mar. 2023), <https://www.alpa.org/news-and-events/air-line-pilot-magazine/ifalpa-affiliation>.

<sup>193</sup> Ludwig Weber, *The Chicago Convention*, in ROUTLEDGE HANDBOOK OF PUBLIC AVIATION LAW 9, 31 (Paul Stephen Dempsey & Ram S. Jakhu eds., 2017).

<sup>194</sup> See *Technical & Operations Committee*, IFATCA, <https://www.ifatca.org/about-ifatca/ifatca-standing-committees/technical-operations-committee/>.

<sup>195</sup> Aeronautical Surveillance Working Group (ASWG), Ground Based Safety Nets Sub-Group (GBSNSG), The Wake Turbulence Working Group (WTWG); see



IFALPA most often shares the already mentioned work on a daily basis in relation to ICAO with IATA. It is safe to say that it is a triangle from which many initiatives, joint statements, and conclusions arise. However, as a separate organization, IFALPA has the task of primarily implementing its goals and objectives. The format of action directed toward ICAO is not always the same and depends on which ICAO forum is accessed. Whether one participates in the ICAO Assembly as an observer or works on committees or in working groups can be very different, depending on whether it is related to certain policies or purely technical issues.

In addition to the already mentioned presence at the ICAO Assembly, IFALPA achieves a very important factor of influence on the work of ICAO through the possibility of presence in the work of the ANC, although without the right to vote.<sup>197</sup> Participating in the work of an ANC organization such as IFALPA gives it the opportunity to promote its cause. Considering the presence of some other aviation organizations in the same forum, it is an opportunity to coordinate a joint performance.

Of course, representing the professional interests of airline pilots, considering many issues that concern them, IFALPA inevitably cooperates with a large number of institutions—either international or national. Fighting for the best possible status of its members, and especially when there are certain violations of labor rights, IFALPA takes certain steps that are often sent to the International Labour Organization (ILO).<sup>198</sup> IFALPA also determined in its practice contrary to the recommendations that came from the agencies dealing with safety in aviation, protecting the interests of the membership in the part related to the medical certificate.<sup>199</sup>

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Int'l Fed'n Air Line Pilots' Ass'ns [IFALPA], *IFALPA Monthly Update: October 2015*, at 1, [https://www.vcockpit.de/fileadmin/dokumente/Waypoint/2015\\_11/IFALPA\\_Monthly\\_Update\\_-\\_October\\_2015.pdf](https://www.vcockpit.de/fileadmin/dokumente/Waypoint/2015_11/IFALPA_Monthly_Update_-_October_2015.pdf).

<sup>196</sup> See, e.g., *Air Traffic Services (ATS)*, IFALPA, <https://www.ifalpa.org/about-us/ifalpa-standing-committees/air-traffic-services-ats/>.

<sup>197</sup> Int'l Civ. Aviation Org. [ICAO], *Standing Rules of Procedure of the Assembly of the International Civil Aviation Organization*, at 9, ICAO Doc. 7600/8 (8th ed. 2014), [https://www.icao.int/publications/Documents/7600\\_cons\\_en.pdf](https://www.icao.int/publications/Documents/7600_cons_en.pdf).

<sup>198</sup> See *Case No 2844 (Japan) - Complaint date: 23-MAR-11*, INT'L LAB. ORG., [https://www.ilo.org/dyn/normlex/en/F?p=1000:50001:0::NO:50001:P50001\\_COMPLAINT\\_FILE\\_ID:2897792](https://www.ilo.org/dyn/normlex/en/F?p=1000:50001:0::NO:50001:P50001_COMPLAINT_FILE_ID:2897792).

<sup>199</sup> STEPHEN K. CUSICK, ANTONIO I. CORTÉS, AND CLARENCE C. RODRIGUEZ, *COMMERCIAL AVIATION SAFETY* 616 (McGraw Hill ed., 6th ed. 2017).

Various accidents involving civil aircraft have also been the focus of IFALPA's work in all previous years. In this regard, the organization was often determined according to a certain event in the form of a public announcement or some other proposals addressed to the relevant institutions. For certain events, such as the downing of the Korean aircraft (KAL007), there was a demand for a boycott of all flights to Moscow due to the involvement of the Soviet side in the event.<sup>200</sup>

## 2. *Conducting Investigations*

Constant work on improving and promoting safety in civil aviation is one of the priorities in the work of IFALPA. With the awareness that the working environment of pilots is still not ideal and that accidents do happen, IFALPA provides its expert assistance precisely in the investigation of such events.<sup>201</sup>

For this purpose, the Accident Analysis & Prevention (AAP) committee was established to monitor the results of work on aviation accident investigations. Special emphasis is placed on the final reports, i.e., whether the standards and recommended practices from Annex 13 have been followed.<sup>202</sup> In addition, there is concern about whether the concept of "Just Culture" has been applied so that the participants in the event and the investigators have sufficient mutual trust.<sup>203</sup> An Accredited Accident Investigator (AAI) is not trained by IFALPA, but to be an AAI accredited pilot, one must be nominated by the parent association and complete training at an organization approved by IFALPA.<sup>204</sup>

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<sup>200</sup> SUZANNE K. KEARNS, *FUNDAMENTALS OF INTERNATIONAL AVIATION* 26 (2d ed. 2018).

<sup>201</sup> *Accident Analysis & Prevention (AAP)*, IFALPA, <https://www.ifalpa.org/about-us/ifalpa-standing-committees/accident-analysis-prevention-aap/>.

<sup>202</sup> Int'l Civ. Aviation Org. [ICAO], *Annex 13 to the Convention on International Civil Aviation: Aircraft Accident and Incident Investigation*, at 5-5 (12th ed. July 2020), <https://store.icao.int/en/annex-13-aircraft-accident-and-incident-investigation>.

<sup>203</sup> MICHAEL W. PEARSON & DANIEL S. RILEY, *FOUNDATIONS OF AVIATION LAW* 195 (2015).

<sup>204</sup> See Gary Parata, Vice-Chairman, Accident Analysis and Prevention Comm., Int'l Fed. of Air Line Pilots' Ass'ns, ANZSASI Safety Seminar, Role of the Pilot Investigator (May 30-June 1, 2008), <https://asasi.org/wp-content/uploads/2021/05/Role-of-the-Pilot-Investigator-Presented-by-Gary-Parata.pdf>.

### 3. Working with Manufacturers

Part of IFALPA's mission is related to helping and supporting not only members, but also the aviation industry.<sup>205</sup> The entire civil aviation in its present form would hardly be conceivable without a high proportion of international cooperation and connectivity. All current achievements would hardly be achievable without it. IFALPA, as a globally recognized organization, is associated with the aviation industry. This connection is particularly reflected in the introduction of safety standards,<sup>206</sup> counseling, preparation of instructions, exploitation of equipment and devices, and ergonomics—all of which are based on the vast experience that airline pilots have as users of aviation industry products. Participation in the work of the ISSG<sup>207</sup> (Industry Safety Strategy Group) on the establishment of the Global Aviation Safety Roadmap, which later becomes the basis for the ICAO Global Aviation GASP<sup>208</sup> (Global Aviation Safety Plan), is an example of cooperation with other organizations in the aviation industry on the development of safety standards.

The aforementioned examples of cooperation are no exception. The effort of manufacturers and professional organizations in providing expert services to the umbrella organization of international civil aviation is crucial for further development. The knowledge and experience of organizations like IFALPA is immeasurable, so it would be unthinkable if such a resource were not used.

### 4. Joint Work with Other NGOs

Due to its development and continuous growth, global civil aviation is seen as a success story and as a team effort. IFALPA can be associated with many aviation organizations and some of them have already been mentioned previously. What is good for

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<sup>205</sup> *What is IFALPA's Mission?*, IFALPA, <https://www.ifalpa.org/faq/what-is-ifalpas-mission/#:~:text=the%20mission%20of%20the%20Federation,members%20and%20the%20aviation%20industry>.

<sup>206</sup> See *EUROCAE and European Pilots Announce Strategic Partnership*, EUR. COCKPIT ASS'N (Apr. 28, 2017), <https://www.eurocockpit.be/news/eurocae-and-european-pilots-announce-strategic-partnership>.

<sup>207</sup> See Paul Lamy, *Global Aviation Safety Plan: History and Development*, INT'L CIV. AVIATION ORG., <https://www.icao.int/safety/fsix/Documents/gasp/Intro%20Info%20session%20on%20GASP.pdf>.

<sup>208</sup> Int'l Civ. Aviation Org. [ICAO], *Global Aviation Safety Plan*, at I-1-1, ICAO Doc. 10004 (2020–2022), <https://www.icao.int/safety/GASP/Documents/Doc.10004%20GASP%202020-2022%20EN.pdf>.

all non-governmental aviation organizations is that they have found a way to direct their common interest towards international organizations whose founders are governments or towards the institutions of individual countries.

It should be emphasized that depending on the problem that is being solved, that is, the interest that the organization represents, the way/format of the organizations themselves may differ. The coincidence of the interests of several civil aviation organizations often leads to their association when representing and solving problems. There are various modalities of participation and certain ones that are done together with ICAO are the previously mentioned working groups, task forces, committees or CAEP.<sup>209</sup>

Sometimes problems are urgent and require prompt action by organizations. They also very often require joint work and coordination with non-aviation organizations. For example, the International Atomic Energy Agency (IAEA) has worked with IFALPA in order to better understand separation for the transport of radioactive material.<sup>210</sup> Specific problems sometimes require wider participation, more organizations, and institutions, such as participation in the work of the IAVW Operations Group (IAVWOPSG) on the development of IAVW.<sup>211</sup>

Also, the increasing use of UAS has not remained outside the focus of the work of IFALPA and other aviation organizations. Their appearance near the airport has become a potential danger to airport operations.<sup>212</sup> In this regard, several organizations have decided on this issue with a joint statement in order to mitigate these risks.<sup>213</sup>

### 5. *Fatigue*

As stated in ICAO Annex 6 Part 1 Chapter 4, Section 10, fatigue is a “physiological state of reduced mental or physical performance capability resulting from sleep loss or extended wakefulness, circadian phase or workload (mental and/or physical activity) that can impair a crew member’s alertness and abil-

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<sup>209</sup> See *IFALPA Monthly Update*, INT’L FED’N AIR LINE PILOTS’ ASS’NS, Oct. 2015, at 1, [https://www.vcockpit.de/fileadmin/dokumente/Waypoint/2015\\_11/IFALPA\\_Monthly\\_Update\\_-\\_October\\_2015.pdf](https://www.vcockpit.de/fileadmin/dokumente/Waypoint/2015_11/IFALPA_Monthly_Update_-_October_2015.pdf).

<sup>210</sup> RUWANTISSA ABEYRATNE, *LAW AND REGULATION OF AERODROMES* 237 (2014).

<sup>211</sup> ABEYRATNE, *supra* note 180, at 99 n.248.

<sup>212</sup> DAVID HODGKINSON & REBECCA JOHNSTON, *AVIATION LAW AND DRONES: UNMANNED AIRCRAFT AND THE FUTURE OF AVIATION* 60 (2018).

<sup>213</sup> *Id.* at 51-52.

ity to safely operate an aircraft or perform safety-related duties.”<sup>214</sup> IFALPA, despite having contributed to the creation of the ICAO draft on fatigue, opted to create its own guidance materials as a result of some limitations identified.<sup>215</sup> IFALPA’s main objection to the ICAO documents was the lack of reference values when it comes to limitations related to fatigue management, considering that there is sufficient knowledge to introduce them.<sup>216</sup> With such an approach, an effort was made to avoid that this matter would not be interpreted by the national authorities in a way that was not intended. This would avoid the possibility of regulators, operators, and crew members not using the same document.

#### H. INTERNATIONAL FEDERATION OF AIR TRAFFIC CONTROLLERS’ ASSOCIATIONS (IFATCA)

The air traffic controller profession recently celebrated its first 100 years of existence.<sup>217</sup> As a profession that developed alongside other professions in civil aviation, it very quickly defined its interests and goals and how to achieve them. The usual path to this was through organized action, and with the creation of national associations in 1961, a global organization representing the interests of IFATCA air traffic controllers was created.<sup>218</sup> With membership coming from over 130 countries and more than 50,000 members, the organization also operates through its four regional entities.<sup>219</sup>

In accordance with the statute, IFATCA has defined itself through seven target provisions as a nongovernmental organization, dedicated to the regularity of international air navigation, its safety, and the protection of the professional interests of air traffic controllers.<sup>220</sup> In other words, in a professional sense, IFATCA is a forum where air traffic controllers can exchange

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<sup>214</sup> See Int’l Civ. Aviation Org. [ICAO], *Annex 6 to the Convention on International Civil Aviation: Operation of Aircraft*, at ch. 1 (Feb. 25, 2013), <https://www.icao.int/safety/fatiguemanagement/FRMS%20Tools/Amendment%2037%20for%20FRMS%20SARPS%20%28en%29.pdf>.

<sup>215</sup> *Guidance Material for Development of Prescriptive Fatigue Management Regulations*, IFALPA (Nov. 2018), <https://www.ifalpa.org/media/3455/guidance-material-for-fatigue-risk-management-nov-2018.pdf>.

<sup>216</sup> *Id.*

<sup>217</sup> See *The Year 2022 Marks the 100th Anniversary of Air Traffic Control*, 100 YEARS AIR TRAFFIC CONTROL, <https://www.atc100years.org/>.

<sup>218</sup> See *About IFATCA*, IFATCA, <https://www.ifatca.org/about-ifatca/>.

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

opinions, experiences, and ideas. Considering that it is a federation of associations, the condition for membership is the existence of an air traffic controller organization at the national level through which IFATCA is accessed, except exceptionally.<sup>221</sup> Taking into account this approach to membership, even when directly performing work for IFATCA, membership maintains a connection with its parent associations.

The annual conference is the key place where decisions are made about the federation's work, i.e., the issues of the organization itself, as well as the conduct of politics.<sup>222</sup> It is made up of delegates of national associations and the principle is that one association should be a member from one country.

The supreme authority of IFATCA is the Annual Conference, at which member associations decide on the organization and policy of the Federation.<sup>223</sup> Members of the association are independent in their work and through their membership in the Federation have the right to actively and substantially participate in the formulation and adoption of IFATCA policy. Two key meetings within the IFATCA work happen through one world and one regional conference on an annual level where venues are planned in advance—they are not tied to the headquarters of the organization, but can be held anywhere.<sup>224</sup>

In terms of executive functions, IFATCA has an executive committee consisting of a total of twelve members, most of whom perform their duties on a voluntary basis.<sup>225</sup> In addition to the President and Deputy President, all regional Executive Vice Presidents of the region are members of this board. Three members of the board are *ex officio*.<sup>226</sup>

In order to increase the efficiency of the organization's work, four permanent committees<sup>227</sup> were established: the Finance Committee (FIC), the Constitution and Administration Committee (CAC), the Professional and Legal Committee (PLC), and the Technical and Operational Committee (TOC). All of

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<sup>221</sup> See *How to Join*, IFATCA, <https://www.ifatca.org/membership/how-to-join/>.

<sup>222</sup> *IFATCA'S 53rd Annual Conference*, ATC Network, <https://www.atc-network.com/atc-events/ifatcas-53rd-annual-conference>.

<sup>223</sup> *Id.*

<sup>224</sup> See *IAOPA - International Council of Aircraft Owner and Pilot Associations*, *supra* note 163.

<sup>225</sup> *The IFATCA Executive Board*, IFATCA, <https://www.ifatca.org/eb/> (last visited May 18, 2023). *Id.*

<sup>226</sup> *Id.*

<sup>227</sup> See *IFATCA Standing Committees*, IFATCA, <https://www.ifatca.org/about-ifatca/ifatca-standing-committees/>.

them are constituted with a different number of members coming from the membership of national associations.<sup>228</sup> Their primary tasks are to consider certain issues of interest from their domain that concern the work of IFATCA.<sup>229</sup> In this sense, they are obliged to update and prepare documentation relevant to the IFATCA policy, to make certain recommendations to competent bodies, as well as to maintain communication with other aviation organizations on issues of mutual interest.<sup>230</sup>

The work of the committee can also be assisted by working groups in the preparation of the work of the committee itself. Practically, the members of these working groups provide their expertise by helping the work of the committee and come from the membership of national organizations.

Administratively, the organization has a full-time employee in the form of a secretary who works at the organization's headquarters in Montreal.<sup>231</sup> The main task performed by the secretary is the preparation of documents for the Executive Board and the organization of conferences and meetings.<sup>232</sup>

#### 1. *Work with Other Civil Aviation Organizations*

Taking into account the specificity of the work of air traffic controllers, the work of the professional organization that globally represents their interests, IFATCA, without interaction and coordination with other aviation organizations would certainly be less successful. It is precisely because of this that a common language, or interest, has been found with many organizations, and it functions in different modalities. As with other organizations of this type, it is primarily, globally speaking, oriented towards ICAO. For these needs, IFATCA, during its years of work, fought for the status of standing observer in the ICAO ANC, like other relevant aviation organizations.

In this way, although an observer in the work of the ANC together with other industry<sup>233</sup> representatives, IFATCA provides

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<sup>228</sup> *Id.*

<sup>229</sup> *Id.*

<sup>230</sup> *Id.*

<sup>231</sup> *Office Manager & Secretariat*, IFATCA, <https://www.ifatca.org/about-ifatca/om/>.

<sup>232</sup> *Id.*

<sup>233</sup> The following organizations are involved in aviation industry: ACI, CANSO, IAOPA, IATA, IBAC, ICCAIA, IFALPA and IFATCA. See *Air Navigation Commission*, IFATCA, <https://www.ifatca.org/about-ifatca/icao-activities/air-navigation-commission/>.

its expert services as an interested party. They are primarily oriented towards the introduction of new standards (SARPs) and procedures (PANS) submitted by the ANC and adopted by the ICAO Council.<sup>234</sup> Regardless of the fact that, as can be seen, organizations like IFATCA are not the ultimate decision-makers regarding SARPs and PANS, they greatly influence their adoption. A whole series of actions and processes that precede the adoption of the same involve numerous interested parties, their proposals, revisions, work through panels and reports lead to the fact that a large number of all listed are adopted and implemented by ICAO.

Therefore, it is about actions and processes that require technical knowledge in order to implement the latest technical/technological changes in the world of civil aviation. In those parts where it is expedient, and based on their expertise, representatives of IFATCA participate in the preparation of changes or creation of new standards. This work is long-term and requires continuity in the engagement of experts. The already mentioned work in ICAO panels is one of the ways of engagement. IFATCA actively participates in the work of numerous ICAO panels.<sup>235</sup> All panels have their own specifics in their work, and they concern the further development and improvement of established standards and procedures in relation to the given domain.

The list of guidance documents produced by IFATCA for various purposes is inexhaustible.<sup>236</sup> The creation of such documents directly corresponds with the goals of the organization itself. In order to raise overall professional knowledge, this kind of educational material is of essential importance. The organization therefore systematically distributes such materials and provides direct assistance to affiliated organizations by organizing

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<sup>234</sup> *ICAO Panels*, IFATCA, <https://www.ifatca.org/about-ifatca/icao-activities/icao-activities-2/>.

<sup>235</sup> *Id.* (listing numerous panels including Airport Design and Operations Panel (ADOP), ATM Operations Panel (ATMOPSP), ATM Requirements & Performance Panel (ATMRPP), Communications Panel - Operational Data Link (CP/OPDLWG), Flight Operations Panel (FLTOPSP), Meteorology Panel (METP), Instrument Flight Procedure Panel (IFPP), Remotely Piloted Aircraft Systems Panel (RPASP), Separation and Airspace Safety Panel (SASP), Safety Management Panel (SMP), Surveillance Panel (SP)).

<sup>236</sup> *See Guidance Documents*, IFATCA, <https://www.ifatca.org/education/guidance-documents/>.



workshops that will additionally impart the necessary knowledge to the membership.<sup>237</sup>

One of the main objectives of the Federation is “to promote and maintain a high standard of knowledge and professional efficiency among air traffic controllers.”<sup>238</sup> In order to achieve this, the Federation implements several educational initiatives, one of which is the creation of a guide for distribution to member associations. The association also conducts air traffic controller training workshops on various relevant topics.<sup>239</sup>

Of course, looking only at the work of IFATCA through particular actions would be too narrow and would not reflect the whole picture. Such work would probably be far less successful than that which is achieved through joint action with other interested parties. In this sense, first of all, it is very important to connect and coordinate with organizations that also have standing observer status in the ANC, bearing in mind that regardless of certain specificities that each of the organizations has, there are also many common interests. Those common interests are most often articulated in joint announcements,<sup>240</sup> proposals, documents,<sup>241</sup> collaborations,<sup>242</sup> emergencies,<sup>243</sup> appeals,<sup>244</sup> petitions,<sup>245</sup> etc.

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<sup>237</sup> *Id.*

<sup>238</sup> See *About IFATCA*, *supra* note 218.

<sup>239</sup> *Id.*

<sup>240</sup> See *IFALPA, IFATCA, IFATSEA Joint Statement for International Women’s Day 2022*, <https://www.ifalpa.org/media/3733/iwd2022-statement.pdf>.

<sup>241</sup> See Int’l Fed’n Air Traffic Controllers’ Ass’ns [IFATCA] & Civ. Air Navigation Servs. Org. [CANSO], *Next Generation of Aviation Professionals*, at 9–10, [https://www.icao.int/Meetings/AMC/NGAP/Documentation/NGAP\\_IFATCA\\_presentation\\_final.pdf](https://www.icao.int/Meetings/AMC/NGAP/Documentation/NGAP_IFATCA_presentation_final.pdf).

<sup>242</sup> See *IFATCA, with the collaboration of GATCO, releases its position paper on the SES and RP3*, GATCO (Feb. 18, 2017), <https://www.gatco.org/gatco-news/2017/02/18/ifatca-releases-its-position-paper-on-the-ses-and-rp3/>; see generally EUROCONTROL & IFATCA, *A Collaborative Approach to the Future: Yearbook 2008*, WORDPRESS, Feb. 2, 2008, <https://apcae.files.wordpress.com/2009/06/eurocontrol-ifatca-yearbook-2008.pdf>.

<sup>243</sup> See, e.g., Rob Mark, *Pilot and ATC Associations Call for Release of Russian Air Traffic Controllers*, FLYING MAG. (Oct. 15, 2020), <https://www.flyingmag.com/russian-atc-calls-for-release/>.

<sup>244</sup> See Presidency Summary of the Informal Videoconference of Transport Ministers, Croatian Presidency of the Council of the European Union, Brussels (Apr. 29, 2020), <https://eu2020.hr/Home/DocumentDownload/216>.

<sup>245</sup> SIDNEY DEKKER, *SECOND VICTIM: ERROR, GUILT, TRAUMA, AND RESILIENCE* 69 (2013); Geoffrey Thomas, *Aviation on Trial*, AIR TRANSPORT WORLD, Sept. 2002, at 31, 35.

Working with other aviation organizations to achieve common interests, IFATCA very often exerts influence on different approaches and on different state institutions, i.e., government agencies. Although in essence this usually means competent ministries, i.e., the aviation authority of a certain country, sometimes it can also be judicial authorities, as was the case after the verdict for the 2014 accident at Vnukovo Airport, Moscow (RUS). International organizations like IFATCA very often react to certain national solutions that they consider to be a threat to air traffic safety.<sup>246</sup>

Looking further, the influence can also go regionally, as is the case in the EU, influencing different bodies and agencies within the EU. Since it is a global organization of a profession, the further influence would go primarily to ICAO, as explained earlier, or to some other organizations/agencies at the same level. In principle, which is also characteristic of other organizations, we look at who is the decision-maker and how to influence them. Therefore, IFATCA tries to maintain communication with various institutions as necessary and in the interest of IFATCA.<sup>247</sup>

Major changes in the airline industry, such as the initiation of major projects, can often be a source of controversy, especially if it significantly affects the work of the staff who make up the membership of the organization. Such structural changes in certain parts of air traffic may require prompt action from professional organizations. Projects like Single European Sky,<sup>248</sup> or its technical part SESAR, can be considered as such. Of course, when there is such a case, organizations of this type must have some initial point of view that usually evolves. However, what is important is that the expert opinions of the IFATCA membership must somehow be represented, that is, they should not be ignored.

Organizations like IFATCA very often get involved in social dialogue even though they are not formal members of such bodies.<sup>249</sup> In an indirect way, they can be included in the whole story, such as the example from the EU, where through

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<sup>246</sup> See *Dossier Albania*, IFATCA (Apr. 2021), <https://www.ifatca.org/2021/04/dossier-albania/>.

<sup>247</sup> See *IFATCA Standing Committees*, *supra* note 227.

<sup>248</sup> See *Single European Sky*, EUR. COMM'N, [https://transport.ec.europa.eu/transport-modes/air/single-european-sky\\_en](https://transport.ec.europa.eu/transport-modes/air/single-european-sky_en).

<sup>249</sup> See PETER KERCKHOFS & GEORG ADAM, REPRESENTATIVENESS OF THE EUROPEAN SOCIAL PARTNER ORGANISATIONS: CIVIL AVIATION SECTOR 243 (2022), <http://www.atceuc.org/documents/social-dialogue-documents/>.

ATCEUC, IFATCA found a way to participate.<sup>250</sup> The work of such organizations in creating policies is desirable, but it should also not be overestimated.

#### I. INTERNATIONAL FEDERATION OF AIR TRAFFIC SAFETY ELECTRONICS ASSOCIATIONS (IFATSEA)

More than half a century ago, professionals from the field of personnel who maintain electronics in systems and devices used for air traffic management founded their organization: IFATSEA.<sup>251</sup> IFATSEA is a federation of national associations whose members deal with the safe operation of CNS/ATM systems and devices, taking care of maintenance, installation, management, monitoring and control, as well as development, review, and modification.<sup>252</sup>

As it is presented in the statute of the organization itself, through the set goals, it is stated that, among other things, IFATSEA “operate[s] as a non-political Federation of Air Traffic Safety Electronics Associations.”<sup>253</sup> IFATSEA holds a General Assembly every year as a key event in reviewing the activities of the organization.<sup>254</sup> Therefore, the Assembly of delegates, composed of representatives of national associations, is considered the highest body. Regular sessions of the Assembly are held in autumn, with the possibility of holding an extraordinary session.<sup>255</sup> Apart from the General Assembly, IFATSEA regional branches hold their meetings once a year.

The Executive Board (EB) of IFATSEA consists of eight members, with the fact that during the election of new board members, a maximum of half members of the board is always changed in order to maintain continuity of work. In accordance with the provisions of the statute and the decisions of the Assembly of Delegates, it manages the organization it represents before other legal and natural persons. The organization has

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<sup>250</sup> MATHIAS JOHANNESSEN, SINGLE SKY – SINGLE INTEREST? NATIONAL INTEREST ORGANIZATIONS AND THEIR ABILITY TO ESTABLISH AND MAKE USE OF A COMMON EU-LEVEL PLATFORM 24 n.4 (2010), [https://www.sv.uio.no/arena/english/research/publications/arena-reports/2006-2010/2010/Report\\_05\\_10.pdf](https://www.sv.uio.no/arena/english/research/publications/arena-reports/2006-2010/2010/Report_05_10.pdf).

<sup>251</sup> See *History*, INT’L FED’N OF AIR TRAFFIC SAFETY ELECTRONICS ASS’NS IFATSEA, <http://www.ifatsea.org/about-us/history/http://www.ifatsea.org/about-us/history/> (last visited May 26, 2023).

<sup>252</sup> *About Us*, IFATSEA, <http://www.ifatsea.org/about-us/>.

<sup>253</sup> Int’l Fed’n Air Traffic Safety Elecs. Ass’ns [IFATSEA], *Constitution and By-Laws*, at 6 (Sept. 6, 2013).

<sup>254</sup> *Id.* at 15.

<sup>255</sup> *Id.*

two permanent committees, the Operations Committee and the Strategic Committee.<sup>256</sup> By function, EB members are co-opted to the work of one or another committee.<sup>257</sup> For specific needs, it is possible to have subcommittees as well as working groups.

IFATSEA's focus, like similar professional civil aviation organizations, is on representing the membership, that is, the associations that are its members. Depending on whether the interests are particular or coincide with the interests of other organizations, the activities of the organization can be changed according to needs. Viewed in this way, that action can be quite different and includes action from the civil aviation umbrella organization ICAO to other regional or national organizations, regardless of whether they come from the non-governmental or governmental sector or are state/supranational institutions.

Considering that IFATSEA represents ATSEP, which comes from the technical domain and is in charge of the work and functioning of the entire CNS/ATM, it is unthinkable not to connect the action with ICAO. For many years, IFATSEA has contributed to issues related to ATSEP as well as civil aviation in general through its work in various forums, ICAO panels, and working groups.<sup>258</sup> This work became particularly visible in the early 2000s regarding the competence of personnel, such as ATSEP.

Thus, at the initiative of ICAO, IFATSEA was engaged in the preparation of ICAO Doc. 7192 E2.<sup>259</sup> In accordance with the situation that in recent decades there has been a very large increase in air traffic where, for reasons of safety, the standards are becoming higher and higher, it was observed that there is a lack of personnel qualified to meet those standards. ATSEP is also among them. Also in relation to the ICAO Next Generation

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<sup>256</sup> *Id.* at 22.

<sup>257</sup> *Id.*

<sup>258</sup> Workshops based on Doc 9868, the Manual on Air Traffic Controller Competency-based Training and Assessment (Doc 10056) for Air Traffic Controllers (ATCO), and Doc. 10057 for Air Traffic Safety Electronics Personnel (ATSEP) manuals have been delivered at all ICAO Regional offices. Int'l Civ. Aviation Org. [ICAO], *Thirteenth Air Navigation Conference: Required Successful Achievement of Basic Training Objectives By All ATSEP*, at 2, AN-Conf/13-WP/229 (Sept. 29, 2018), [https://www.icao.int/Meetings/anconf13/Documents/WP/wp\\_229\\_en.pdf](https://www.icao.int/Meetings/anconf13/Documents/WP/wp_229_en.pdf).

<sup>259</sup> Int'l Civ. Aviation Org. [ICAO], *Training Manual, Part E-2: Air Traffic Safety Electronics Personnel (ATSEP)*, at ix, ICAO Doc. 7192-AN/857 (1st ed. 2011), [http://www.aviationchief.com/uploads/9/2/0/9/92098238/icao\\_doc\\_7192\\_-\\_training\\_manual\\_-\\_part\\_e2\\_-\\_atsep\\_-\\_1st\\_edition\\_-\\_2012.pdf](http://www.aviationchief.com/uploads/9/2/0/9/92098238/icao_doc_7192_-_training_manual_-_part_e2_-_atsep_-_1st_edition_-_2012.pdf).

of Aviation Professionals<sup>260</sup> (NGAP) program launched in previous years, IFATSEA has taken an active part in its work since its inception. Further engagement led to work on ICAO documents such as PANS-TRG Doc. 9868 and Doc. 10057<sup>261</sup> Training Manual, which both raised the cooperation to a significantly higher level.<sup>262</sup>

However, regardless of the cooperation it previously established with ICAO and participation in the work of its various forums, IFATSEA has not managed to secure itself a permanent observer position in the ANC for many years. The whole process gained momentum again from 2016 after IFATSEA re-raised the issue of permanent observer status in the ANC. Thus, upon receipt of the state letter from ICAO<sup>263</sup> on the establishment of the ICAO Personnel Training and Licensing Panel (PTLP), IFATSEA initiated issues of participation in the work of the respective panel. In October 2020, the President of the ANC approved the presence of IFATSEA in the PTLP.<sup>264</sup> Thus, the entire work of IFATSEA, which especially refers to the training and licensing of personnel, is fully recognized through its presence in the work of this body.<sup>265</sup> Further efforts by IFATSEA to join the ANC, although slowed by the emergence of Covid-19, nevertheless led to a successful outcome in February 2021 where the President of the ICAO Council invited IFATSEA to participate in the work of the ANC as an observer.<sup>266</sup>

However, one of IFATSEA's goals, which is directly related to the work of ICAO, has not yet been fulfilled: the licensing of

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<sup>260</sup> See *NGAP Programme*, ICAO, <https://www.icao.int/safety/ngap/Pages/NGAP-Programme.aspx>.

<sup>261</sup> ICAO Doc. 10057 replaced the previous ICAO Doc. 7192 E2. Int'l Civ. Aviation Org. [ICAO], *Manual on Air Traffic Safety Electronics Personnel Competency-based Training and Assessment*, ICAO Doc. 10057 (1st ed. 2017), [https://www.icao.int/MID/Documents/2018/CBT%20ATCO%20and%20ATSEP%20Wksp/Doc%2010057\\_en.pdf](https://www.icao.int/MID/Documents/2018/CBT%20ATCO%20and%20ATSEP%20Wksp/Doc%2010057_en.pdf).

<sup>262</sup> *About Us*, *supra* note 252.

<sup>263</sup> Int'l Civ. Aviation Org. [ICAO], *Letter from Fang Liu: Establishment of Personnel Training and Licensing Panel (PTLP)*, SP 76/1-20/87 (Aug. 18, 2020), <https://mcaa.gov.mn/wp-content/uploads/2021/11/087e-2020.pdf>.

<sup>264</sup> Letter from Thorsten Wehe, IFATSEA President, to All IFATSEA Affiliates (Mar. 20, 2021), <https://fsai.es/wp-content/uploads/2021/04/2021-03-20-IFATSEA-Letter-to-All-Affiliates-Developments-at-ICAO.pdf>.

<sup>265</sup> *Id.*

<sup>266</sup> See *Important Developments in ICAO*, IFATSEA (Mar. 10, 2021), <http://www.ifatsea.org/important-developments-in-icao/> ("After a long process IFATSEA received the invitation by the ICAO President, Salvatore Sciacchitano to nominate an Observer for the ANC.").

ATSEP personnel.<sup>267</sup> Regardless of the aforementioned documents ICAO Doc 9868 *Procedures for Air Navigation Services – Training* and Doc 10057 which, among other things, deal with training and competencies related to ATSEP in relation to Annex 1, ATSEP does not belong to the category of licensed personnel.<sup>268</sup> A number of years ago, at the initiative of IFATSEA and submitted by various member states at ICAO assembly sessions, working papers<sup>269</sup> were presented on the need to include<sup>270</sup> ATSEP in Annex 1, but so far without success.

Cooperation with government agencies or EU institutions like EASA is crucial for an organization like IFATSEA.<sup>271</sup> The development of new technologies in air traffic management inevitably requires new competencies and skills from the personnel involved. The role of the professional association is, among other things, precisely to help the work of institutions such as EASA through cooperation, so that the existing CNS/ATM system is maintained and further improved. The cooperation with the EUROCONTROL organization has existed for many years and the previously mentioned ICAO Doc 7192 E2 has its origins in the previous cooperation of IFATSEA with EUROCONTROL regarding the development of a manual<sup>272</sup> that would deal with professional training of personnel such as ATSEP.

The contribution to the work of the SESAR JU project by professional organizations with their capacities in the field of expertise and operational experience is very important, where IFATSEA also found its place. Providing opinions and advice on various issues to SESAR JU bodies or EU and the Industry Consultation Body (ICB)<sup>273</sup> institutions by professional organizations like IFATSEA is an integral way of acting.<sup>274</sup> As an interested party, IFATSEA is also involved by making regulatory

<sup>267</sup> See Int'l Civ. Aviation Org., [ICAO], *The Integration of Air Navigation Personnel Into Annex 1* (ICAO Working Paper No. A39-WP/129, Aug. 17, 2018), [https://www.icao.int/Meetings/a39/Documents/WP/wp\\_129\\_en.pdf](https://www.icao.int/Meetings/a39/Documents/WP/wp_129_en.pdf).

<sup>268</sup> *Id.*

<sup>269</sup> See Int'l Civ. Aviation Org. [ICAO], *Assembly – 38th Session: The Integration of Air Navigation Personnel Into Annex 1*, A38-WP/151 TE/60 (Aug. 22, 2013), [https://www.icao.int/Meetings/a38/Documents/WP/wp151\\_en.pdf](https://www.icao.int/Meetings/a38/Documents/WP/wp151_en.pdf).

<sup>270</sup> Goran Petrović, *The Problem of Licensing the Air Traffic Services Electronic Personnel (ATSEP)*, AVIATION & SPACE J., APR / JUN 2016 YEAR XV N° 2, at 29, 31.

<sup>271</sup> *Social Dialogue*, ATSEP, <https://atsep.eu/social-dialogue/>.

<sup>272</sup> See *Work of the ERM*, ATSEP, <https://atsep.eu/work-of-the-erm/>.

<sup>273</sup> See *Mobility and Transport*, EUR. COMM'N, [https://ec.europa.eu/transport/modes/air/ses/industry-consultation-body\\_en](https://ec.europa.eu/transport/modes/air/ses/industry-consultation-body_en).

<sup>274</sup> See Int'l Fed. of Air Traffic Safety Elec. Ass'ns [IFATSEA], *IFATSEA Position Paper on Resilience and Efficiency through Leadership and Cooperation*, Position Paper

proposals regarding integrated air traffic management (Horizon Europe program).<sup>275</sup> Thus, IFATSEA is involved in the future technological solutions on which the future ATM in Europe will be based.

Given that its membership includes several associations that are also registered as trade unions,<sup>276</sup> participation in social dialogue is one of the issues that IFATSEA pays attention to.<sup>277</sup> Considering that part of the activities occur at the European level, it is clear to see cooperation with other aviation organizations as well as cooperation and participation in the work of EU institutions (eg: C- Social Expert group for Professionals, cooperation with ATCEUC, ETF, etc.).

#### IV. THE INTERTWINING OF THE INTERESTS OF CIVIL AVIATION NGOS AND TRADE UNIONS

Professional associations in civil aviation, like IFATCA, IFALPA, IFATSEA, etc., as interest organizations, represent and protect the professional interests of their members. However, taking into account the existence of common interests on many issues, in other words the intertwining of interests, inevitably such organizations are naturally directed to cooperation with trade unions. Although trade unions as such do not constitute NGOs but rather fall under the broader category of non-state actors, it is interesting to look at their intertwining in their work. Very often certain trade unions in civil aviation have only one profession for membership (i.e. pilot or air traffic controller). Cooperation between associations and unions can be *ad hoc* or take a more permanent form, depending on what interest is being protected.

What can also be immediately noticed is that this cooperation includes a wide range of labor rights and social dialogue where the rights of employees are viewed more broadly in relation to how professional associations can do it. Also, one of the charac-

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No. R21-PP/07 (Sep. 4, 2021), <https://hermes.aero/wp-content/uploads/2021/09/R21-PP07-IFATSEA.pdf>.

<sup>275</sup> See *European Partnership for Integrated Air Traffic Management (Horizon Europe Programme)*, EUR. COMM'N (Aug. 27, 2019), [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11908-European-Partnership-for-integrated-air-traffic-management-Horizon-Europe-programme-/feedback\\_en?p\\_id=5722693](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11908-European-Partnership-for-integrated-air-traffic-management-Horizon-Europe-programme-/feedback_en?p_id=5722693).

<sup>276</sup> See *Member Associations (Affiliates)*, IFATSEA (Sept. 21, 2018), <http://www.ifatsea.org/about-us/member-association-list/>.

<sup>277</sup> *Social Dialogue*, ATSEP, <https://atsep.eu/social-dialogue/>.

teristics can be that the members of the association and the union can be exactly the same members, but that does not always have to be the case. In practice, members of different associations that bring together, for example, pilots, air traffic controllers and ATSTEP can hypothetically find themselves in the same trade union organization if their goals are so intertwined that they form a single organization. In this way, the interests of the membership are better protected and the action towards the decision-makers, whether at the national or international level, is far more effective. After all, the principle of solidarity is much better expressed in this way.

Considering the domain from which the previously mentioned associations come, part of the wider global story is the International Transport Workers' Federation (ITF),<sup>278</sup> where civil aviation also belongs.<sup>279</sup> As civil aviation has developed in recent decades, its globalization is inevitable and the problems related to personnel employed in this industry began to work on problems that have become more or less similar everywhere. Therefore, the need for organizations involved in this industry to coordinate actions among themselves and express a kind of solidarity, which could not be ignored from the place where decisions are made, has greatly increased. It is enough to take a global phenomenon such as COVID-19 as an example of such cooperation. Many questions arose from that pandemic, taking into account that it paralyzed civil aviation in its beginning and that some previous economic indicators have not yet been established in relation to 2019. That is why the position of these organizations in relation to ICAO is important—that is, what solutions are offered regarding the sustainability of civil aviation as well as national solutions.<sup>280</sup>

Professional associations very often direct their activities regionally, primarily using the fact that almost all of them have an organizational division into different regions. The need for such action arises from regional specificities, but it is also possible for national ones. In this regard, if we were to consider certain solu-

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<sup>278</sup> See *Who We Are*, INT'L TRANS. WORKERS' FED'N, <https://www.itfglobal.org/en/about-us/who-we-are>.

<sup>279</sup> *Civil Aviation*, INT'L TRANS. WORKERS' FED'N, <https://www.itfglobal.org/en/sector/civil-aviation>.

<sup>280</sup> See *Green Aviation: Trade Unions Demand Strong International Commitment With Social Sustainability and a Just Transition*, INDUSTRIAL GLOBAL UNION (June 21, 2022), <https://www.industriall-union.org/green-aviation-trade-unions-demand-strong-international-commitment-with-social-sustainability-and-a#main-content>.



tions related to Europe and take for example the profession of air traffic controllers whose interests are represented by IFATCA, a certain specificity can easily be observed. ETF<sup>281</sup> is a regional subsidiary of the ITF with the aim of representing the interests<sup>282</sup> of transport workers in thirty-eight European countries.<sup>283</sup> However, it is clear that ETF as an organization does not exclusively protect the interests of air traffic controllers, but a far larger number of professions that perform activities in traffic, including in civil air traffic.<sup>284</sup>

Unlike the ETF, looking at the European level, ATCEUC as an organization represents the trade union interests exclusively of air traffic controllers at the European level.<sup>285</sup> ATCEUC is run by board members who do so on a voluntary basis and as such are active air traffic controllers (thus paid by their employers).<sup>286</sup> They hold their conferences twice a year (in spring and autumn) where delegates are made up of members from individual affiliates. Seen in this way, these are the places where the views of the national trade union organizations of air traffic controllers should be summarized and a common European policy shaped. That policy can be directed towards the institutions of the EU (and most often it is) or, if there is a need, towards the institutions of a certain country.<sup>287</sup> Protecting the interests of air traffic controllers, that is, social and economic issues are of primary interest to ATCEUC.

The method of realization can be different because participation in any form in certain commissions, working groups, projects, programs, etc., certain interests can be represented, opinions can be given, etc. One of the main ways to influence decision-makers for an organization like ATCEUC is to participate in social dialogue. The organization is recognized by EU institutions as a partner in social dialogue.<sup>288</sup> An additional spec-

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<sup>281</sup> Eur. Trans. Workers' Fed'n [ETF], *Constitution of the European Transport Workers' Federation*, at 3, <https://www.etf-europe.org/about-etf/etf-constitution/>.

<sup>282</sup> *See id.* at 4.

<sup>283</sup> *See Presentation*, ATCEUC, <http://www.atceuc.org/presentation/>.

<sup>284</sup> *See id.*

<sup>285</sup> *About Us*, EUR. TRANS. WORKERS' FED'N, <https://www.etf-europe.org/about-us/>.

<sup>286</sup> *Id.*

<sup>287</sup> *Id.*

<sup>288</sup> ATCEUC is European social partner from 2009. *See* MARK CARLEY, SONIA KCKAY, JEAN-MICHEL MILLER, & ISABELLA BILETTA, *INDUSTRIAL RELATIONS DEVELOPMENTS IN EUROPE 2009 8* (2010), <https://www.eurofound.europa.eu/publications/report/2010/industrial-relations-developments-in-europe-2009>.

ificity of ATCEUC as a representative in the European sector of civil aviation<sup>289</sup> in relation to social dialogue is that it secured a place for the participation of IFATCA<sup>290</sup> within its delegation. In a way, it is about the intertwining of the interests of two organizations, which can also be seen by participating in the work of the ICB or a European project such as Single European Sky (SES) or its technical application SESAR. Questions of common interest can be related to “Just Culture,” which both organizations pay attention to in order to influence decision-makers.

It must be emphasized here that the ATCEUC has earned a place in the social dialogue due to the number of air traffic controllers across Europe of over 14,000, which is a far greater number than the ETF had. ATCEUC, with the help of CANSO and ETF, defined its participation in the social dialogue through the development of the Toolbox for successful social dialogue in air traffic management.<sup>291</sup> However, regardless of its large membership, ATCEUC does not have professionals who lead the organization, and therefore does not have permanent representatives in the EU institutions. This is one of the limiting factors in the work, which is also a characteristic of others in the world of civil aviation where functions are performed voluntarily.<sup>292</sup> Therefore, when looking at the influence of organizations like ATCEUC or other organizations that represent professional interests, it can be concluded that they do not have enough influence on decision-makers or official institutions.<sup>293</sup> In addition to organizational shortcomings, cultural differences between the members themselves, who come from different countries where there are considerable differences in trade union organization and activities, can have a lot of influence.<sup>294</sup>

Regarding SES/SESAR since it affects changes in the working environment of air traffic controllers from the very beginning there is an interest of ATCEUC in the matter of its overall implementation as a European project.<sup>295</sup> Issues of cost reduction at the expense of reducing air traffic controller personnel have al-

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<sup>289</sup> See *Sectoral Social Dialogue – Civil Aviation*, EUR. COMM’N, <https://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPageId=1829> (last visited May 26, 2023).

<sup>290</sup> KERCKHOFS & ADAM, *supra* note 249, at 159.

<sup>291</sup> *Id.*

<sup>292</sup> JOHANNESSEN, *supra* note 250, at 67.

<sup>293</sup> *Id.* at 75-76.

<sup>294</sup> *Id.* at 82.

<sup>295</sup> *Id.* at 53.

ways attracted enormous attention. On its part, protecting the interest of the membership as their representative, ATCEUC very often tried to oppose any unfavorable solutions.<sup>296</sup> However, ATCEUC also gave support to certain solutions as a responsible social partner if it considered them completely acceptable.<sup>297</sup>

Safety in civil aviation is also a primary issue for ATCEUC even though they are a trade union association. In this connection, when the reduction of costs at ANSP was considered in the European framework, ATCEUC expressed the opinion that such a thing could worsen safety performance.<sup>298</sup> Even in the German government's attempt to privatize the national ANSP DFS, the ATCEUC supported the German air traffic control union GdF because it also believed that this could affect the safety of service provision.<sup>299</sup> And issues that require a serious level of expertise to solve were not often left without a reaction from ATCEUC. Such is the case when the organization did not agree with the EASA proposal regarding the separation of aircraft in relation to obstacles.<sup>300</sup>

Differences in trade union activity in different national frameworks were a frequent reason for action and initiation of actions by the ATCEUC. First of all, from the elementary rights to the air traffic controller's strike and beyond. At the same time, things happened within national frameworks that were in contradiction with EU regulations and related to the use of revenue from the collection of services in air navigation.<sup>301</sup> In several countries across Europe, there have been cases where air traffic controllers have been judicially sentenced to prison<sup>302</sup> terms or

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<sup>296</sup> See *Sectoral Social Dialogue – Civil Aviation*, *supra* note 289.

<sup>297</sup> CARLEY et al., *supra* note 288, at 42-43.

<sup>298</sup> See Air Traffic Controllers Eur. Unions Coordination [ATCEUC], *ATCEUC Committee Meeting Spring 2017 Final Communiqué*, <http://www.atceuc.org/uploads/docs/20170505-atceuc51st-meeting-final-communication-issue.pdf>.

<sup>299</sup> See Air Traffic Controllers Eur. Unions Coordination [ATCEUC], *38th ATCEUC Meeting Venice 8-9th October 2010 Final Communiqué*, <http://www.atceuc.org/uploads/docs/38th-atceuc-meeting-venice-final-communication.pdf>.

<sup>300</sup> ATCEUC considered the EASA proposal to be inconsistent with Annex 11. Air Traffic Controllers Eur. Unions Coordination [ATCEUC], *40th ATCEUC Meeting Lisbon Final Communiqué*, <http://www.atceuc.org/uploads/docs/40-meeting-atceuc-lisbona-comunicato-finale.pdf>.

<sup>301</sup> See Air Traffic Controllers Eur. Unions Coordination [ATCEUC], *41st ATCEUC Meeting - Tirana Final Communiqué*, <http://www.atceuc.org/uploads/docs/41st-atceuc-meeting-tirana-spring-2012-final-communication.pdf>.

<sup>302</sup> For examples, events from Russia and Albania where air traffic controllers were sentenced to prison terms.

finances<sup>303</sup> on various grounds. ATCEUC has determined itself firmly against any further criminalization in civil aviation by firmly adhering to the principles of the European Corporate Just Culture Declaration.<sup>304</sup>

## V. CIVIL AVIATION NGO IN VIEW OF COVID-19

The appearance of COVID-19 around the world, its spread, and unpredictable consequences did not escape the field of civil aviation either.<sup>305</sup> The response to the pandemic was not the same everywhere, and therefore the measures to suppress it were not the same.<sup>306</sup> State decisions varied and ranged from quarantine measures to less stringent measures.<sup>307</sup> Of course, all this greatly affected travel, where air traffic immediately came under the impact of restrictive measures. The beginning of the pandemic was marked by the complete suspension of traffic in many regions, with the fact that Just Culture Declaration, over time the situation improved (with the advent of the vaccine and the weakening of the epidemic).<sup>308</sup> Today, air traffic has more or less recovered, but not to the full extent where it was in 2019.<sup>309</sup>

Depending on what a certain NGO represents in the world of civil aviation, there were different attitudes, demands, initiated actions, and lobbying initiated towards decision-makers. One thing was certain, however, and that is that regardless of the differences between the organizations that belong to NGO civil aviation, all of them were at a loss due to the emergence of COVID-19. Due to the huge losses in all sectors of the aviation industry, civil aviation NGOs have focused on protecting the interests of the groups/personnel they represent. Part of the industry exper-

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<sup>303</sup> Marc Baumgartner, *The Delicate Balance – Safety versus Justice Interest: The latest Developments in Switzerland*, AVIATION & SPACE J., JAN./MAR. 2020 YEAR XIX N° 1, at 23, 31.

<sup>304</sup> See Air Traffic Controllers Eur. Unions Coordination [ATCEUC], *European Corporate Just Culture Declaration*, <http://www.atceuc.org/uploads/docs/european-just-culture-declaration.pdf>.

<sup>305</sup> Updated WHO recommendations for international traffic in relation to COVID-19 outbreak, WORLD HEALTH ORG. (Feb. 29, 2020), <https://www.who.int/news-room/articles-detail/updated-who-recommendations-for-international-traffic-in-relation-to-covid-19-outbreak>.

<sup>306</sup> *Id.*

<sup>307</sup> *Id.*

<sup>308</sup> *Id.*

<sup>309</sup> See EUROCONTROL *Analysis Paper: 2022 - The year European aviation bounced back*, EUROCONTROL (Dec. 31, 2022), <https://www.eurocontrol.int/publication/eurocontrol-analysis-paper-2022-year-european-aviation-bounced-back>.

perienced severe devastation and layoffs, especially among airlines,<sup>310</sup> while part of the industry (i.e. ANSP) survived thanks to loans and government subsidies.<sup>311</sup>

The pandemic is one of the factors that had an extremely negative impact on civil aviation, such as war conflicts, terrorist attacks, etc. When comparing the emergence of COVID-19 to all previous disturbances such as war conflicts, economic crises,<sup>312</sup> or the terrorist attack on the World Trade Center in New York in 2001, COVID-19 had far greater scope. In many parts of the world, there were practically no flights except those for emergency and humanitarian purposes. Each NGO from the domain of civil aviation considered this situation and its place within all of it from its own perspective, trying to provide some kind of sustainable solution, whether it referred to cost reduction or tax collection. Due to the unpredictability of the duration of COVID-19, all forecasts related to air traffic have become very unreliable. One can take as an example how initially EUROCONTROL<sup>313</sup> and IATA<sup>314</sup> came up with different scenarios related to the recovery of air traffic.

Taking into account how much the aviation industry was affected by COVID-19, each NGO in its domain took certain steps to protect its interests in the best way. Part of the NGO from the professional domain<sup>315</sup> of civil aviation came out with the initiative that the time of COVID-19 should be used for changes. More precisely, “policy-makers and aviation stakeholders must use the crisis to rethink the ‘old’ system and to ‘repair’ its structural weaknesses and distortions that the crisis revealed – which,

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<sup>310</sup> *Id.*

<sup>311</sup> See *COVID-19 Has Radically Changed How We Understand Our World and Our Ability to Move Freely Around It*, EUROCONTROL (Nov. 16, 2020), <https://www.eurocontrol.int/article/covid-19-has-radically-changed-how-we-understand-our-world-and-our-ability-move-freely>.

<sup>312</sup> For example, the 2008 financial crisis.

<sup>313</sup> See *COVID19 Impact on European Air Traffic EUROCONTROL Comprehensive Assessment*, EUROCONTROL (Oct. 7, 2020), <https://www.eurocontrol.int/sites/default/files/2020-10/covid19-eurocontrol-comprehensive-air-traffic-assessment-07102020.pdf>.

<sup>314</sup> See Int'l Air Transp. Ass'n [IATA], *Global Outlook for Air Transport: Times of Turbulence*, at 13 (June 2022), <https://www.iata.org/en/iata-repository/publications/economic-reports/airline-industry-economic-performance-june-2022-report/>.

<sup>315</sup> See *COVID-19 & Aviation: Time to Rethink!*, IFATCA, <https://www.ifatca.org/2020/09/covid-19-time-to-rethink/> (last visited May 26, 2023).

if unaddressed, will hinder the recovery, weaken the aviation sector, and harm the public interest.”<sup>316</sup>

The example of the ACI organization indicates precisely that considering the effects on the rapid decrease in the number of passengers during COVID-19 and thus reduced airport revenues. At the beginning of the pandemic, ACI as an organization appealed to the European Commission and EU member states to adopt the European Aviation relief Program<sup>317</sup> and “in the United States, ACI North America [sought] \$10 billion in assistance from the US Congress to meet airports’ needs.”<sup>318</sup>

Likewise, IATA, representing the interests of carriers, has been working on sustainable measures to combat the transmission of infection, especially during the summer, coordinating everything with other interested parties since the beginning of the pandemic. Looking at the situation like this, IATA, together with other organizations and agencies, is taking actions to make the entire air transport chain as safe as possible for passengers.<sup>319</sup> This included a request to governments to test travelers for COVID-19 in a unique way. Also, in terms of recovery measures for the entire industry, work was done in the Council Aviation Recovery Taskforce (CART) working group established by ICAO, where the World Health Organization (WHO) was also involved.<sup>320</sup>

As previously mentioned, a situation full of unknowns like COVID-19 has produced enormous economic damage that has

<sup>316</sup> *Id.*

<sup>317</sup> ACI Europe, ASA, ACA, and ETRC jointly sent a letter to the European Commission in March 2020 calling for a relief plan for airports in light of the pandemic. See *Airport Operators & Service Providers Call for “Urgent Supporting Measures” From European Commission & States*, AIRPORTS COUNCIL INT’L (March 23, 2020), <https://www.aci-europe.org/media-room/243-aci-europe-asa-aca-etrc-joint-industry-letter-to-european-commission-23-march-2020-european-aviation-relief-plan-airports.html>.

<sup>318</sup> The International Finance Corporation (IFC) published a report in May 2020 outlining measures airports can take to mitigate the impact of the pandemic. See Int’l Fin. Corp. [IFC], *The Impact of COVID-19 on Airports: An Analysis*, [https://www.ifc.org/wps/wcm/connect/26d83b55-4f7d-47b1-bcf3-01eb996df35a/IFC-Covid19-Airport-FINAL\\_web3.pdf](https://www.ifc.org/wps/wcm/connect/26d83b55-4f7d-47b1-bcf3-01eb996df35a/IFC-Covid19-Airport-FINAL_web3.pdf).

<sup>319</sup> ICAO, ACI, CANSO, IATA, TIACA, WFP, and WHO worked together to provide guidance and resources related to COVID-19 for the aviation industry. See *Aviation and COVID-19*, ICAO, <https://www.icao.int/Security/COVID-19/Pages/default.aspx>.

<sup>320</sup> The International Civil Aviation Organization’s Council Aviation Recovery Taskforce (CART), which included the World Health Organization, was established to support the recovery of the aviation industry during the pandemic. See *id.*

not bypassed the airline industry either. In this sense, all interested parties tried to give their contribution, including the organizations that belong to civil aviation NGOs. Their purpose of existence, i.e., their work during the pandemic, was very difficult and entailed changes in the formats of action. Predictions about the future of air traffic became irrelevant and were not at all encouraging. Part of civil aviation NGOs directed their activities towards official institutions in terms of introducing changes and resetting the system. Thus, regardless of the differences between the NGOs operating in this domain, they managed to find a common interest in order to recover the entire aviation industry.

## VI. PROBLEMS IN THE WORK OF NGO CIVIL AVIATION

Civil aviation NGOs were faced with limited activities and very often resorted to reorganization (for example, the creation of the AACC).<sup>321</sup> Some organizations have problems with their headquarters, especially the smaller ones, or problems with their regional headquarters (for example, IFATCA Europe). Being an observer in ICAO does not mean being someone who makes decisions so that at first glance the role is very limited and the influence is reduced to the lowest possible level or does not exist. In terms of the allocation of NGO resources, a much better approach to achieving goals is cooperation and coordination with other NGOs.

For many years, certain segments of civil aviation did not even have an organization that would represent their interests. For example, CANSO, founded only in 1996, provides services in air traffic management. Sometimes the number of members and the coverage of an organization that claims to be global are different things. Let's just take for example the number of members of certain professional organizations, that is, the number of countries from which their membership comes.<sup>322</sup>

Some organizations are of a hybrid nature and are not purely professional where, for example, IFATSEA brings together professional associations and trade unions. Organizations for the most part do not employ professional staff and everything is on

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<sup>321</sup> Int'l Civ. Aviation Org., *supra* note 54.

<sup>322</sup> See *About IFATCA*, IFATCA, <https://www.ifatca.org/about-ifatca> (last visited May 26, 2023) (IFATCA has a membership that comes from over 130 countries and more than 50,000 members.); *Member Associations (Affiliates)*, IFATSEA (Sept. 21, 2018), <http://www.ifatsea.org/about-us/member-association-list/> (IFATSEA has 20,000 members from 70 countries.).

a voluntary basis. This is especially characteristic of professional organizations. Here, an absurd conclusion arises where it can be said that professional organizations act unprofessionally.

The diversity of issues dealt with by civil aviation NGOs has often led to agreement on certain issues, but also differences in order to protect their own interests. Let's just take for example the position of IATA on the required number of ANSPs in Europe<sup>323</sup>, where IATA is a very frequent critic of the work of ANSPs in terms of the number of centers, people, and expensive services.

The problem in the work of IATA is when, regardless of the fact that they have compliance at the organizational level regarding tariffs, everything must be accepted by the governments of individual countries. With its many decades of activity and the position it has acquired, IATA was considered a cartel. When looking at the intertwining of the work of certain organizations with ICAO (for example with IATA), the question is whether that work would have been successful without the relevant information provided by ICAO.

Although there are criticisms directed generally towards NGOs that they have little or no influence on safety issues, in civil aviation there are organizations that want to achieve as much influence as possible in this regard through their programs. Security issues were not left out of this focus either. Environmental protection issues are part of the standard occupation of more or less all organization.

Considering that in civil aviation NGOs there is in a way a treasury of professional knowledge directed towards training, the importance of its uniformity around the world is something that NGOs are also trying to do apart from official institutions. Any lack of up-to-dateness or anachronism in this regard means future problems in the work, but also possible risks for the safety of performing work in civil aviation.

Sometimes, problems in civil aviation require prompt action by an NGO. Depending on what exactly is at stake and how much the organization protects its interest with the necessary action, the possible course of action will also differ. Sometimes it

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<sup>323</sup> See Int'l Aviation Transp. Org. [IATA], *A Blueprint for the Single European Sky: Delivering on safety, environment, capacity and cost-effectiveness*, at 3, 7, <https://www.iata.org/contentassets/1fe3809927bb4a65bff43b410cd311da/blueprint-single-european-sky.pdf> ("The grouping of en route air navigation services provision at Functional Airspace Block (FAB) levels with no more than 40 Air Traffic Control Centers (ATCC) across Europe . . .").



will be industrial action and sometimes just a press release. The less coordination and synchronization, the more pronounced particular interests in this kind of action, the more modest the results will be.

Certain professional organizations such as IFATCA have been given the opportunity to participate in social dialogue through the ATCEUC, likewise in EU bodies like ICB (IFATSEA and IFATCA). Very often, it is about the intertwining of the interests of trade unions and professional organizations. Employers or official institutions very often have objections that certain NGOs of a professional nature are engaged in old trade union activities. There are also real problems in the activities of the NGOs themselves in these bodies: do they really represent a key player in this field or are they more or less just a decoration?

## VII. CONCLUSION

The breadth of activities related to civil aviation enabled the operation of numerous NGOs. The role and influence of organizations in civil aviation is very large. Regardless of differences in terms of establishment or field of activity, civil aviation organizations have been present for many decades and have found their place.

As in other human activities, there is a demand from a huge number of people to solve things in a different way than the official one. In this regard, civil aviation is no exception. NGOs represent a way for united citizens to realize some of their global interests, that is, to realize their ideals. Realizing the current and growing influence of UN NGOs, they found a way to organize their cooperation with them in a different way, which was done through the UN ECOSOC body. One of the basic conditions for NGOs to cooperate with the UN is that they must not be associated with criminal activities.

We can certainly attribute the enabling of NGO participation in the work of the UN forum to further democratization in the field of international law. In fact, it is about the tendency of the increasing presence of NGOs in the work of international institutions, which indicates a certain degree of democratization of relations, although the role of states still remains inviolable. There are different modalities of cooperation between specialized UN agencies and NGOs. Considering the rather large diversity in the field of activity and the size of the specialized agency itself, NGOs cooperate more with agencies that have larger budgets and a wider field of activity.

For the consideration of civil aviation NGOs, which have global coverage, the relationship and influence they achieve in relation to the international civil aviation organization ICAO as a specialized agency of the UN is first of all important. Such NGOs are numerous, but they do not all have the same influence and observer status in the key ICAO expert body - ANC.

On the basis of the considered organizations that included only civil aviation NGOs that have observer status in the ANC but also global coverage in terms of membership, certain functioning modalities and ways of influencing an organization such as ICAO as well as relevant regional, supranational, national institutions (aviation authority) were clearly imposed for civil aviation.

The diversity among all considered NGOs is quite large in terms of membership, set goals, organization of work, etc. However, regardless of the differences, there are also numerous similarities that unite them on many issues and enable them to act together. At the same time, when we talk about the differences, it is negligible whether the organizations in question represent a part of the aviation industry, a certain special sphere or profession. Close cooperation between civil NGOs is very numerous and this cooperation often leads to joint documents that launch new initiatives or propose solutions that are very often directed towards ICAO (it is enough to take AVSEC as an example). Subjects of interest are safety issues, new technologies, environmental protection, training, etc. There are also questions about the increasing use of Unmanned aircraft systems (UAS).

Of course, the size of the NGO, i.e. the number of members, associated with the organizational capacity, greatly influences the level of representation and expertise that it will offer to the relevant institutions from the world of civil aviation. Perhaps the example of ICAO's mutual cooperation with IATA and IFALPA speaks volumes about this, where this is the case on a daily basis. Or it is the case when the operational committee of IATA adjusts its agenda before meeting with ICAO.

The work of NGOs to create industrial standards in civil aviation has led to changes in certain aviation regulations or to the introduction of certain standards thanks to the expert work of NGOs. The work on the global level of civil aviation NGOs did not neglect the work with the national aviation authorities in order to achieve the goals of the organizations themselves. Representing interests in this sense is not an easy task at all and requires a great deal of engagement in cooperation with legisla-

tors and aviation authorities. Here we can take as an example the case from the USA, which refers to the attempt to privatize air traffic control by the state. Namely, in that case, the subsidiary of IAOPA from the USA AOPA opposed the intention to privatize ATC in the USA and led an active campaign against it.

Protecting the professional interests of their membership of the IFALPA or IFATCA organization, along with the standard concern for the safety of aviation operations, they directed a good part of their activities towards violating the labor rights of their members. Such steps sometimes involved turning to an organization such as the ILO or cooperating with trade unions. Sometimes it meant turning to the judicial authorities of certain countries if it was felt that aviation professionals had been unfairly punished. For this purpose, participation in the investigations of aviation events at the expert level also played a certain role. The participation and application of the "Just Culture" concept must not be neglected here either.

The interaction of NGOs with the work of the aviation industry is reflected in several segments through safety standards, counseling, the creation of instructions, the exploitation of equipment and devices, ergonomics. All this based on the vast professional experience of membership coming from NGOs. Participation in various projects where there is additional cooperation with manufacturers and official institutions should not be left out.

Cooperation with official institutions can sometimes be through forms that are not formal. On the example of IFATCA related to the action in Europe, there is involvement in the social dialogue at the EU level even though they are not formal members of the Social Council. This was done through the ATCEUC and shows how NGOs can approach decision makers and represent the interests of the membership.

The intertwining of activities between NGOs and trade unions as a broader category of Non-state actors is neither rare nor unusual in civil aviation. Very often certain trade unions in civil aviation have only one aviation profession for membership (e.g., pilot, air traffic controller). Cooperation between associations and unions can be *ad hoc* or take a more permanent form, depending on what interest is being protected. What can also be immediately noticed is that this cooperation includes a wide range of labor rights and social dialogue where the rights of employees are viewed more broadly in relation to how professional associations can do it.

And one such global disruption affecting civil aviation like COVID-19 has led to NGOs acting together and putting pressure on decision makers. Some parts of the aviation industry and certain professions have found themselves in an extremely difficult position. Practically trying to protect their interests and their membership, NGOs put pressure on decision-makers to save parts of the industry from collapse through loans or state subsidies. In addition, it was not an easy task because everything had to be somehow sustainable in order to be accepted at all.

The operation of the civil aviation NGO is not free from shortcomings in its work and very often it is not always successful. There are many reasons for this, but in the previously discussed sections, they boil down to poor organization, a small number of professional staff or their absence working for the NGO, and conflicting interests with other NGOs. Likewise, on issues of aviation safety, criticism is often expressed towards the work of NGOs in the sense that they have little or no influence on it.

Even when several NGOs act together, especially where it is necessary to act promptly, the organizations know that they express some particular interest or think that they should act differently. Sometimes it will be industrial action and sometimes just a press release. The less coordination and synchronization in the work of NGOs, the more pronounced particular interests will inevitably lead to more modest results.

Today's functioning of civil aviation would certainly be different without the existence of NGOs. The existence of government organizations alone would not provide answers to all questions and problems. Representing the interests of certain interest groups or professions and trying to influence the world of civil aviation outside the official approach would hardly be present. Other non-state actors might help in this to some extent, but it would by no means be enough. In maintaining a safe and sustainable civil aviation, not all NGOs have the same influence and access to decision makers; however, the past decades have shown that NGOs have their place and successfully represent their membership and achieve their goals.