SECURITY CONTROL AS PART OF THE CIVIL AVIATION SECURITY SYSTEM AGAINST THE ACTS OF UNLAWFUL INTERFERENCE

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ABSTRACT

The topic of an article is the security control in civil aviation as the aviation security system element used againstthe acts of unlawful interferences. The article includes legal, organizational and processual conditions, i.e. legal regulations, entities responsible for security control, entities performing security screening, resources and methods used to conduct security controls, security control operators, training, supervision and compliance control. The article refers to the security control for passengers, person other than passengers, luggage, airport supplies and in-flight supplies and rejects one of the most common argument about security control, which considers it as the primary and most effective way to ensure civil aviation safety. At the same time, the author constructs his own hypothesis that while in the context of security check on check-in baggage, airport supplies and on-board supplies this control can be an effective way of protecting civil aviation against an act of unlawful interference, although, in relation to security check of people who are not passengers, passengers and their cabin luggage, this control is mainly of a preventive nature, intended to discourage potential offenders from attempting act of unlawful interference.

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KEY WORDS

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The matter of safety in civil aviation is affected by both aviation safety and aviation security. Aviation safety applies to technical parameters, production and use of air crafts, thus the risk of error or mistake and damage is lower than maximum acceptable level (Jafernik, Fellner, 2015: 23). Aviation security is achieved by a combination of measures and human and material resources which are designed for aviation security against the acts of unlawful interference. That act was defined in Annex

17 to the Convention on International Civil Aviation as illegal and attempted acts such as to jeopardize the safety of civil aviation, including:

- unlawful seizure of aircraft;
- destruction of an aircraft in service;
- hostage-taking on board aircraft or at airports;
- forcible intrusion on board an aircraft, at the airport or on the premises of an aeronautical facility;
- introduction on board an aircraft or at the airport of a weapon or hazardous device or material intended for criminal purposes;
- use of an aircraft in service for the purpose of causing death, serious body injuries, or serious damage to property or the environment;
- communication of false information such as to jeopardize the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public, at the airport or on the premises of a civil aviation facility (Annex 17 Security – Safeguarding International Civil Aviation against Acts of Unlawful Interference, 2011: 1-1).

On the other hand, security system of civil aviation consists of the following:

- legal regulations including regulatory, supervisory and enforcement institutions;
- airport security – by using physical protection, perimeter protection systems, CCTV, employees access control, staff, vehicles and airport supplies security control;
- restricted area access control – using ID cards, checking boarding passes, CMC passage operation, validation of authorization;
- safety check – including passengers, cabin baggage, staff and cabin crew, check-in baggage, cargo and mail, airport supplies and in-flight supplies,
- forms of protection on board during the flight i.e. in-flight security officer, cockpit door (Siadkowski, 2015a:129);
- reconnaissance and behavioral profiling.

This article is dedicated to one element of the security system i.e. security control detailing security check of passengers and hand baggage, airport staff and cabin crew, check-in baggage, airport supplies and in-flight supplies. The analysis of security control with the division into particular types of argumentation is a different specificity and a different assessment of its effectiveness. One of the most common opinions about security control is considering it as the primary and most effective way to ensure civil aviation safety (Karnowska-Werner, 2010:83), however, the author questions this thesis, while at the same time constructing his own hypothesis that while in the context of security check on check-in baggage, airport supplies and on-board supplies this control can be an effective way of protecting civil aviation against an act of unlawful interference, although, in relation to security check of people who are not passengers, passengers and their cabin luggage, this control is mainly of a preventive nature, intended to discourage potential offenders from attempting act of unlawful interference. Furthermore, security check is a disruptive process for both the security beneficiaries (passengers, carriers and forwarders), as well as for the entity responsible for ensuring safety and performing checks (airport management). Therefore, the author will make an effort to answer the question: what elements and how do they affect the effectiveness of security check in civilian air transport? In this article the author uses the following research methods: systemic, legal and institutional; however, all legal acts presented in it are binding on May 20, 2018.

Legal conditions in the context of security control

The Republic of Poland, as an independent and sovereign country, establishes its own national regulations, including the communications dedicated to the safety of civil aviation. However, being a part of international organizations, such as International Civil Aviation Organization, ICAO, ratification of conventions and protocols prepared by the United Nations, as well as membership in the European Union, forces Poland to adapt national regulations to the norms of international and European law.

In case of Poland, legal regulations regarding security control arise from three sources: international law, European Union law and national law (Ceglarski, 2014:196). On the international level, legal regulations relating to civil aviation security are regulated by Convention on International Civil Aviation, signed in Chicago, December 7th, 1944 where the basic international legal act dedicated to the protection of civil aviation is Annex 17 to the Convention on International Civil Aviation „Safeguarding International Civil Aviation Against Acts of Unlawful Interference" (Rzepka, 2013:17).

For other European Union countries the basic legal act in the field of civil aviation security is Regulation (EC) No 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) No 2320/2002. Other legal acts in the field of civil aviation security are as follows:

- Commission Implementing Regulation (EU) 2015/1998 of November 5th 2015 laying down detailed measures for the implementation of the common basic standards on aviation security;
- Commission Regulation (EC) No. 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No. 300/2008 of the European Parliament and of the Council;
- Commission Implementing Decision C (2015) 8005 of 16 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security, containing the information referred to in Article 18 lit. a) Regulation (EC) No 300/2008 (not published in the OJ).

National regulations on civil aviation security including security control are as follows:

- Polish Aviation Law of July 3rd, 2002, Journal of Laws, no. 130, item 112;
- Minister of Transport, Building and Maritime Affairs Regulation of July 31st, 2012, in case of National Security of Civil Aviation Programme, Journal of Laws 2012, item 912 (NSCAP);
- Minister of Transport, Building and Maritime Affairs Regulation of September 20th, 2013 in case of National Aviation Security Training Programme, Journal of Laws 2013, item 1147 (NAT);
- Minister of Transport, Building and Maritime Affairs Regulation of July 25th, 2013 in case of National Quality Control System in terms of civil aviation security, Journal of Laws 2013, item 1148 (NQCS).

All the above mentioned: international convention, European Union law and national regulations create an organizational and procedural dimension of civil aviation security in Poland, while national legislation should be compatible with EU common law, in order to preserve harmonized and uniformed standards of civil aviation security (Siadkowski, 2013:198). The indication of legal acts is intended to show that security control is a process clearly defined

by law and serves the overriding purpose of protecting against acts of unlawful interference in civil aviation and maintaining an appropriate level of security.

Organizational dimension of security control

Security control means the application of technical or other resources to identify or detect prohibited articles (OJ L 97), thereby, security control shall prevent the restricted area of the airport and on board of the aircraft from prohibited items or the articles that may endanger the infrastructure or flight (Siadkowski, 2011: 102). Prohibited items means as follows: weapons, explosives or other dangerous objects, devices or substances that may be used to commit an unlawful interference threatening the safety of civil aviation (OJ L 97). The catalog of prohibited articles varies depending on the type of luggage and people who want to carry it. There is a list of items prohibited in cabin luggage, checked-in luggage as well as cargo and mail; the category of prohibited articles for passengers and non-passengers as well as for cargo and mail depending on the type of aircraft will also be different. On the other hand, the reserved area of the airport is part of the operational area where other aviation security standards are used in addition to limited access (ibidem).

Until March 18th 2013, Border Guard was responsible for security control. In line with the amendment to the Polish Aviation Law of June 2011 and March 18th, 2013, the obligation to perform tasks related to civil aviation security control rests with the airport management,obliged to perform the tasks imposed by the act through the airport security service. In accordance with Article 21 of the Aviation Act, the security service of the airport is the Internal Airport Security or Specialist Armed Protective Formation operating on the basis of the protection of persons and property of August 22nd 1997 (OJ 2002 no. 130, item 1112: art. 21). The airport management's choice of the entity performing the security check is set out in art. 186b para. 1 of the Aviation Act, according to which, tasks related to civil aviation security control are performed by the following:

1. Airport management, in particular in the field of passengers, luggage, cargo, mail, off-duty supplies and airport facilities supplies:
   a) in relation to air transport,
   b) in passage between public area and restricted area of the airport.
2. Registered agent and registered supplier of on-board supplies within the meaning of Regulation no. 300/2008 WE (ibid.: art. 186b, paragraph 1).

In practice, the choice of the optimal solution is justified by the economic factor and efficiency, where the main indicators are the finances and capacity of the airport.

After indicating the entity responsible for security control and the possibility of commissioning the inspection to other entities, including external ones, more attention should be paid to the human factor, because the physical control is carried out by a screener, which must meet a number of requirements and have appropriate qualifications and competences. From the point of view of the civil aviation security system, screener is a sensitive category of personnel responsible for security, which is why the level of training ultimately determines the effectiveness of the entire system (Siadkowski, 2015b: 80).

The basic document entitling to work as a screener is a valid certificate issued by the president of the CAA. To obtain it, one has to pass the exam at the CAA headquarters. It consists of a theoretical

and practical part. The theoretical part is aimed to check the candidate's knowledge of the regulations in force; it consists of 40 multiple-choice questions. To pass the exam, one has to answer at least 28 questions correctly. The practical part is performed using computer hardware and involves analyzing the images for the purpose of assessing whether the image is safe (called "clear"), or if it contains forbidden objects. A person who is being examined must indicate at least 75% of images without threats and 65% of images with prohibited articles to pass the practical part (Decision no 6 of CAA, 2014: art.7). In case of a negative result, the candidate has the right for two retakes from the part from which they did not receive a positive grade. The whole process of applying for a certificate to be a screener consists of three elements in which the exam itself is the last, third component. The first one is to verify the candidate's past, because the training can be attended by a person who has been identified with no premises to perform the security check (OJ 2002 no 130, item 1112: art.186b, paragraph 11). For this purpose, the entity performing or intending to perform civil aviation security control tasks, directing a person for training in order to obtain the certificate, must apply to the territorially competent commandant of the Border Guard department with a request to establish a lack of negative premises to perform control in relation to the indicated person referred to in article 188 paragraph 4 and 5 (ibid: art.186b, paragraph 12). Only after checking the past, the candidate may take part in a specialist course lasting at least two weeks, culminating in an internal exam. In addition to the certificate, the screener must have an entry in the list of qualified employees of physical protection.

The screener holding a valid certificate and entry on the list of qualified employees of physical protection, thus fulfilling strictly defined conditions and having appropriate competences, can conduct security checks in civil aviation. However, changing working environment (technological development, changes in legal regulations and procedures) and the emergence of new threats necessitate continuous changes, which in the protection system should be aimed at continuous improvement of effectiveness and increase of security. Training is one of the most important form of improving competences and skills. In the field of civil aviation security, the following types of training are carried out:

1) generazl in the field of civil aviation security awareness;
2) civil aviation security awareness;
3) basic;
4) professional training;
5) specialized for people:
   a) directly supervising persons applying security controls,
   b) responsible for organizing civil aviation security in an aviation entity;
6) instructors;
7) national auditors and internal quality control auditors;
8) EDD team;
9) refresher;
10) regularly repeated (Journal of Laws 2013 item 1147: Article 2).

The abovementioned trainings are important from the point of view of the protection system, however, they are mainly limited to theoretical knowledge. In terms of practical skills, key courses are trainings completed using computer programs in which screeners analyze virtual images and acquire the skills to use the image enhancement functions available in the X-ray machine.

The third type of training that should be subjected to screeners is called on the job trainings, i.e. trainings held at the workplace. This method is particularly important in relation to newly employed, when re-qualifying or modifying the scope of duties of employees, and in case of training good habits and eliminating errors, violations and infringements. The most important elements of practical training for screeners are the following activities:

- correct response to the WTMD gateway alarm;
- proper manual control;
- X-ray device operation including image analysis and use of image enhancement;
- operation of devices for detecting traces of explosives;
- operation of devices for detecting liquid explosives;
- manual metal detector operation;
- preparing the passenger for security checks;
- use of the developed communication system (e.g. a system of verbal and nonverbal signs sent to other operators at the security control point) in case of detection of a prohibited and/or dangerous object in the luggage or on the passenger's body;
- reaction to the detection of a prohibited and/or dangerous object in the baggage or on the passenger's body, e.g. the method of incapacitating the passenger, the process of evacuating passengers from the security control point, the process of notifying other services that take care of public order and safety;
- conducting simulations of security control taking into account unusual scenarios.

The above systematics distinguishes three types of trainings to which the screener is subjected, i.e. theoretical training, practical training dedicated to image analysis and on-the-job training. Each type of training has its own specificity and positively influences the operator's knowledge, but in order to realistically improve the skills, each operator should be subjected to a continuous training process that takes intoaccount all the above-mentioned methods.

Security control as a protection algorithm

Security control in civil aviation communication is a process defined and based on legal acts, thanks to which it is possible to present the algorithm, occurring during the security control, whose characteristics are defined, such as the specificity and the list of prohibited items in relation to the types of persons and objects subjected to control.

The security measures for passengers and their cabin luggage include security checks before entering the security restricted area of the airport and then on board the aircraft. Each security control station is equipped with a stationary gate used for metal detection and X-ray devices meeting relevant criteria. The position should be filled with three screeners (Journal of Laws of 2012 item 912: Article 43); one operator, called directional, located in front of the WTMD gate and prepares passengers for control; the second operator is behind the WTMD gate and observes if when passing through the gate the passenger does not cause an alarm or does not carry suspicious objects (e.g. unnatural bulges) and is responsible for performing manual inspection; the third operator handles the X-ray device and analyzes the images. Each operator can x-ray luggage up to 20 minutes, after which it must take no less than 10 minutes break in baggage screening. The algorithm for handling passengers' security and their hand luggage

is as follows. Each passenger is subjected to access control by verifying their boarding pass, i.e. a document entitling them to enter the security restricted area of the airport and to board the aircraft. Access control is carried out using a scanner reading the bar code placed on the boarding pass – in the appropriate case the boarding pass can be manually entered to the system instead of using a scanner, or checked visually, this control can also be performed by the directional operator, but to increase the bandwidth and reduce the risk of error the introduction of a boarding systemseems a better solution. After the access control, the passenger is prepared for security checks by the directional operator; before the security control the passenger removes the outerwear (coats, jackets, blazers, hats, scarves, gloves, etc.) which are screened as cabin luggage. If appropriate, screener may ask the passenger to dispose of further items (OJ L 299, point 4.1.1.1). The passenger is then subjected to a screening check using at least one of the following methods:

a) manual inspection;
b) metal detection gates (WTMD);
c) devices for detecting explosives;
d) devices for detecting traces of explosives (ETD);
e) devices for screening people who do not use ionizing radiation;
f) detection of trace amounts of explosives (ETD) in combination with a hand-held metal detector (HHMD) (OJ L 299, point 4.1.1.2).

The screener responds to any alarm triggered by devices that have been used for security control. In the event of an alarm signal when passing through a metal detection gate, the cause of the alarm must be determined and corrected. If the screener cannot determine if a passenger transfers prohibited articles, this passenger is denied access to the restricted area or subjected to a security check again until operator does not consider that the control requirements have been met (ibidem). During the manual inspection, the operators make sure, as far as possible, that the inspected person does not carry prohibited items (ibidem: point 4.1.1.3).

Before screening cabin luggage, portable computers and other large electrical devices are removed from it, which is subjected to security screening separately – unless an explosive detection system (EDS) meeting the C2 or higher standard is used for security control (ibidem: point. 4.1.2.1). In case of liquids, gels and aerosols (called "liquids"), passengers are allowed to carry them in single packages with capacity of no more than 100 ml. Liquids need to be placed in one sealable see-through plastic bag, with capacity no more than 1 liter, the contents of the bag must fit inside it, and the bag need to be closed (ibidem: point 4.1.2.2).

Cabin luggage shall be screened using at least one of the following methods:

a) manual inspection;
b) x-ray equipment;
c) explosive detection systems (EDS);
d) explosive detection dogs in combination with manual control;
e) ETD devices (ibidem: point 4.1.2.3).

If screener cannot determine whether cabin luggage contains prohibited articles, it is rejected or subject to a security check again until it is not considered that the control requirements have been met[1] (ibidem). In case of detection of the prohibited items, they are challenged and not allowed to be brought into the security restricted area. If the passenger has liquids exceeding 100 ml and has a relevant certificate that they are necessary for the passenger during the journey (e.g. for medical or dietary rea-

[1] This rule applies to all security control types discussed in this article.

sons), after an appropriate security check they may be allowed to enter the security restricted area and on board the aircraft. If a live animal is carried in the passenger cabin, it is subjected to the same safety checks as cabin luggage or passenger (ibidem: point 4.1.1.6).

It is important that the competent authority has the power to create categories of passengers for which special security screening procedures are applied for objective reasons or which can be exempted from screening (ibidem: point 4.1.1.7). The following persons belong to the group of persons exempt from security control in the Republic of Poland: the President of the Republic of Poland, the Senate Marshal, the Speaker of the Sejm, the Prime Minister, Deputy Speakers of the Sejm, members of the Council of Ministers and all persons who are under the protection of state services; members of official delegations; officers of organizational units subordinated to or supervised by the Prime Minister, the minister competent for internal affairs and soldiers of the Military Police, during the performance ofactivities related to ensuring the protection of the above-mentioned persons (Journal of Laws of 2012, item 912: Article 46).

In the context of cabin crew, i.e. persons other than passengers and items carried, persons shall be screened by the same means as passengers and their cabin luggage. Prior to security clearance, screener controls the access by verifying a temporary or one-time airport identification card, crew member card or other document entitling to enter the security restricted area. The difference in the security control between staff and deck crew and passengers consists mainly in a different list of prohibited articles. In addition, for security purposes, the personnel and cabin crew shall undergo a security check in specially designed crossings; in case of a deck crew, this is the CMC passage. In case of persons who are not passengers, who have an airport identification card, the following persons are exempt from security control: Border Guard officers and employees, Police officers, Customs Service, Government Protection Bureau, Internal Security Agency, Foreign Intelligence Agency, Central Anticorruption Bureau, soldiers of the Military Counterintelligence Service, Military Intelligence Service, Military Police, firefighters of the State Fire Service authorized to carry out inspection and reconnaissance operations at the airport (ibidem: Article 34); internal airport security; firefighters of the airport rescue and fire-fighting service, qualified employees of physical protection employed inAirport Security Guards, in case they were equipped with firearms (ibidem) in accordance with the protection plan; members of the State Commission on Aircraft Accident Investigation and holders of the certificate of civil aviation inspector issued by the President of CAA.

An additional aspect that may accompany personnel checks and occurring in case of in-flight supplies and airport supplies is the vehicle security control, which is subject to a pre-entry inspection to the reserved part of the airport. Before the check, the driver and other persons in the vehicle disembark and take all their personal belongings to subject them to security control (OJ L 299, point 1.4.2.1). The basic method of vehicle security control is manual control, consisting in detailed control of selected areas, including their contents, to ensure that there are no prohibited items (see section 1.4.3.1). For additional control, explosive detection dogs and equipment for detecting explosive amounts of explosives (ETD) can be used (ibidem).

The next type of security control is the security check of check-in baggage. Each piece of baggage checked in before being loaded onto an aircraft must be screened using the following or in combination:

a) manual inspection;
b) x-ray equipment;
c) explosive detection system (EDS);
d) device for detecting traces of explosives (ETD);
e) dogs for detecting explosives (ibidem: point 5.1.1).

The most effective method of security control of check-in baggage is using the explosive detection system (EDS). The EDS is capable of detecting and signaling by means of an alarm individual explosives of specified quantities that are in baggage or other consignments, regardless of the shape and location of the explosive (ibidem: point 12.4.1).

The last two categories of security screening are security controls for in-flight supplies and airport supplies. All equipment intended to be taken on board an aircraft for use, consumption or purchase by passengers or crew during a flight, other than air carrier mail and air carrier materials, cabin baggage and items and baggage carried by non-passengers (ibidem: point 8.0.2). However, airport supplies are defined as all items intended to be made available, use or sale for any purpose or for any activity in restricted areas, other than items carried by non-passengers' (ibidem: point 9.0.2). Despite the difference between what constitutes on-board supplies and the airport supplies and presenting both types in two separate chapters of Regulation 2015/1998, the author presents both categories together, because each of them applies exactly to the same measures or methods of security control, namely:

a) visual inspection;
b) manual inspection;
c) x-ray equipment;
d) EDS equipment;
e) ETD equipment in combination with visual inspection;
f) explosive detection dogs in combination with visual inspection (ibidem: points 8.1.2.3 and 9.1.2.3).

The abovementioned methods and agents are used alone or in combination.

Complementary elements of the civil aviation security screening system and aiming at ensuring the proper conduct of control while maintaining the appropriate legal provisions and procedures are supervision and compliance control. The supervision over security control for the President of the CAA is exercised by the Border Guard, which has the authority to independently undertake activities such as the following: observing and registering the functioning of the security control point; controlling the number of screeners at the security control station and reporting to the airport manager doubts about the psychophysical condition of the operators; responding to breaches of civil aviation security regulations; checking certificates held by operators; immediate reaction to public disturbance signals at the security control point and adjacent area (OJ 2002 No. 130, item 1112: Article 186b). In contrast to compliance checks, the National Quality Control Programme lists conservation audits, security inspections, protection tests, and a review of protection (OJ 2013 item 1148: Article 4); checks are carried out by domestic and internal auditors.

Summing up, the security control system consists of the following elements: legal regulations, entities responsible for security control (airport management), entities performing security screening, resources and methods used to conduct security

controls, security control operators, training, supervision and compliance control. Security control is considered to be currently the most effective method to prevent prohibited articles from being carried on board that could be used to carry out an act of unlawful interference. However, the effectiveness of security checks cannot be clearly defined. The control methods applied to screening of check-in baggage and on-board supplies and airport supplies are effective protection, while the screening of passengers and their cabin baggage is mainly a preventive element. It is argued that the passenger has permanent access to items contained in hand luggage and the possibility of an unlawful interference by means of an item that is not necessarily on the list of prohibited items.

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