



**PERMANENT MISSION
OF THE RUSSIAN FEDERATION
TO THE COUNCIL OF EUROPE**

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**Mr Terry DAVIS
Secretary General
Council of Europe
Strasbourg**

Strasbourg, 6 April 2006

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Dear Mr Secretary General,

I have the pleasure to transmit herewith the reply by the Minister of Foreign Affairs of the Russian Federation, Mr Sergey Lavrov, to your letter of 7 March 2006 on alleged cases of unacknowledged detention and transportation of persons in Council of Europe member states.

Sincerely Yours,

Alexander ORLOV

**Ambassador,
Permanent Representative**



РОССИЙСКАЯ ФЕДЕРАЦИЯ
МИНИСТР ИНОСТРАННЫХ ДЕЛ

г.Москва, « 4 » апреля 2006 года

Уважаемый господин Генеральный секретарь,

Направляю дополнительные разъяснения на Ваш запрос от 7 марта 2006 года относительно якобы имеющих место в европейских странах-членах Совета Европы случаев негласного заключения и транспортировки лиц, причастных к терроризму.

Пользуясь случаем, позвольте выразить уверения в моем весьма высоком к Вам уважении.

С.СЛАВРОВ

ЕГО ПРЕВОСХОДИТЕЛЬСТВУ
ГОСПОДИНУ ТЕРРИ ДЭВИСУ,
ГЕНЕРАЛЬНОМУ СЕКРЕТАРЮ
СОВЕТА ЕВРОПЫ

г.Страсбург

Unofficial translation

MINISTER OF FOREIGN AFFAIRS
OF THE RUSSIAN FEDERATION

Moscow, 4 April 2006

Dear Mr Secretary General,

Please find enclosed additional clarifications following your request of 7 March 2006 concerning alleged cases of unacknowledged detention and transportation, in Council of Europe member states, of persons involved in terrorist activities.

I avail myself of the opportunity to renew the assurances of my highest consideration.

Sergey LAVROV

HIS EXCELLENCY
Mr TERRY DAVIS
SECRETARY GENERAL
OF THE COUNCIL OF EUROPE
Strasbourg

Разъяснения к запросу Генерального секретаря Совета Европы

Т.Дэвиса от 7 марта 2006 года.

В настоящее время в России механизм контроля за иностранными транзитными воздушными судами основывается на положениях Конвенции о международной гражданской авиации (Чикагской конвенции), Воздушного кодекса, в частности его статей №№ 79, 80, 81 и 82, а также Сборника аэронавигационной информации (aeronautical information publication) Российской Федерации. Соответствующие выдержки из данных российских нормативных актов приведены в приложениях 1 и 2. Таким образом, юрисдикция в отношении указанных воздушных судов осуществляется на основе этих документов.

В дополнение к ранее направлявшемуся ответу также сообщаем, что согласно ст.11 Уголовного кодекса Российской Федерации преступления, совершенные в пределах воздушного пространства Российской Федерации, признаются совершенными на территории Российской Федерации. Лицо, совершившее преступление на судне, приписанном к порту Российской Федерации, находящемся в открытом воздушном пространстве вне пределов Российской Федерации, подлежит уголовной ответственности по Уголовному кодексу Российской Федерации, если иное не предусмотрено международным договором Российской Федерации. По Уголовному кодексу Российской Федерации уголовную ответственность несет также лицо, совершившее преступление на военном воздушном судне Российской Федерации независимо от места его нахождения.

В отношении вопроса № 4 Вашего обращения сообщаем, что, по данным на 1 апреля с.г., российскими правоохранительными органами не зафиксировано ни одного случая вовлечения должностных лиц в упомянутую в вопросе деятельность. В данном контексте каких-либо

правительственных, парламентских и иных расследований по этому поводу в Российской Федерации не проводилось.

Соответственно, какие-либо официальные расследования (в широком смысле — не только уголовные, но также правительственные, парламентские и другие) в Российской Федерации по упомянутым вопросам не велись и не ведутся.

Clarifications following the request of the Secretary General of 7 March 2006

Currently, the control mechanism concerning foreign transit aircraft is based on provisions of the Convention on International Civil Aviation (the Chicago Convention), of the Air Code of the Russian Federation (in particular, its Articles 79, 80, 81 and 82) as well as of the Aeronautical Information Publication of the Russian Federation. Relevant excerpts from those normative acts are reproduced in Appendices 1 and 2. Therefore, jurisdiction with respect to such aircraft is exercised on the basis of those documents.

In addition to the information already provided, we would like to inform that according to Article 11 of the Criminal Code of the Russian Federation, crimes committed within the airspace of the Russian Federation are considered to be committed within the territory of the Russian Federation. A person having committed a crime on board an aircraft registered in the Russian Federation within open airspace outside the territory of the Russian Federation, is subject to criminal responsibility under the Criminal Code of the Russian Federation, unless other rules are established by an international treaty of the Russian Federation. Is also subject to responsibility under the Criminal Code of the Russian Federation a person having committed a crime on board of a military aircraft of the Russian Federation, irrespectively of where it has been committed.

As regards question No.4 of the request, it is to be noted that, as of 1 April 2006, Russian law-enforcement authorities have not registered any cases of involvement of public officials into the activities in question. In this context, no governmental, parliamentary or other investigations have been carried out in the Russian Federation.

Consequently, no official investigation (in the large sense – not only criminal, but also governmental, parliamentary or other) on the mentioned issues has been carried out, nor is being carried out in the Russian Federation.

Воздушный кодекс Российской Федерации

Глава XI. Международные полеты воздушных судов

Статья 79. Международные полеты воздушных судов

1. Международный полет воздушного судна - полет воздушного судна в воздушном пространстве более чем одного государства.

2. Международные полеты воздушных судов в воздушном пространстве Российской Федерации выполняются в соответствии с законодательством Российской Федерации, общепринятыми принципами и нормами международного права и международными договорами Российской Федерации.

3. Правила международных полетов воздушных судов, аэронавигационная информация относительно международных воздушных трасс, международных аэропортов и открытых для международных полетов воздушных судов аэродромов, а также другая информация, необходимая для осуществления международных воздушных сообщений, публикуются в Сборнике аэронавигационной информации Российской Федерации.

4. Международные полеты воздушных судов выполняются на основе международных договоров Российской Федерации или разрешений, выдаваемых в порядке, установленном Правительством Российской Федерации.

5. Оповестительные знаки воздушных судов иностранных государств должны сообщаться эксплуатантами уполномоченному органу в области гражданской авиации до начала выполнения международных полетов.

6. Для выполнения полетов воздушных судов иностранных государств в воздушном пространстве Российской Федерации эксплуатанты обязаны предоставить уполномоченному органу в области гражданской авиации сведения о страховании или об ином обеспечении ответственности за причинение вреда третьим лицам и воздушным судам. Условия такого обеспечения устанавливаются уполномоченным органом в области гражданской авиации.

Статья 80. Взлет и посадка воздушных судов Российской Федерации и воздушных судов иностранных государств при выполнении международных полетов

Взлет и посадка воздушных судов Российской Федерации и воздушных судов иностранных государств при выполнении международных полетов в воздушном пространстве Российской Федерации производятся в международных аэропортах и на открытых для международных полетов воздушных судов аэродромах, за исключением случаев, установленных

законодательством Российской Федерации.

Статья 81. Признание на территории Российской Федерации судовых документов, имеющих на борту гражданских воздушных судов иностранных государств

1. Судовые документы, имеющиеся на борту гражданских воздушных судов иностранных государств, признаются действительными на территории Российской Федерации, если они соответствуют международным авиационным стандартам, признаваемым Российской Федерацией.

2. Гражданские воздушные суда иностранных государств при производстве посадки на территории Российской Федерации могут быть подвергнуты осмотру с проверкой судовых документов уполномоченными лицами соответствующих уполномоченных органов.

3. В случаях, если на борту гражданского воздушного судна иностранного государства отсутствует установленная для международных полетов документация или имеются основания считать данное воздушное судно неисправным, уполномоченный орган в области гражданской авиации может приостановить отправку этого воздушного судна.

Статья 82. Применение паспортных, таможенных и иных правил при выполнении международных полетов воздушных судов

На прибывающие в Российскую Федерацию, убывающие из Российской Федерации и следующие транзитом с посадкой на территории Российской Федерации воздушные суда, их экипажи и пассажиров, а также на имущество, багаж, грузы и почту, ввозимые в Российскую Федерацию и вывозимые из Российской Федерации, распространяется действие паспортных, таможенных и иных правил, установленных в соответствии с законодательством Российской Федерации.

Air Code of The Russian Federation

Chapter XI. International flights of aircraft

Article 79. International flights of aircraft

1. An international flight of an aircraft is a flight of an aircraft in the airspace of more than one country.
2. International flights of aircraft in the airspace of the Russian Federation must be carried out in compliance with the legislation of the Russian Federation, generally recognised principles and standards of international law and international agreements to which the Russian Federation is a party.
3. Regulations for international flights of aircraft, aeronautical information on international air routes, international airports and aerodromes open to international flights of aircraft, as well as other information required for carrying out international air traffic shall be published in the Aeronautical Information Publication of the Russian Federation.
4. International flights of aircraft shall be carried out on the basis of international agreements to which the Russian Federation is a party or permissions issued according to the procedure established by the Government of the Russian Federation.
5. Identification marks of aircraft of foreign countries must be reported by the operators to the specially authorised body in the field of civil aviation before the commencement of an international flight.
6. In order to carry out flights of aircraft of foreign countries in the airspace of the Russian Federation the operators must submit information on insurance or other indemnities of liability for causing damage to third persons and aircraft to the specially authorised body in the field of civil aviation. The conditions of such security shall be established by the specially authorised body of civil aviation.

Article 80. Takeoff and landing of aircraft of the Russian Federation and aircraft of foreign countries in performing international flights

The takeoff and landing of aircraft of the Russian Federation and aircraft of foreign countries in performing international flights in the airspace of the Russian Federation shall be made at international airports and aerodromes open to international flights, unless otherwise provided for by the legislation of the Russian Federation.

Article 81. Recognition of aircraft documents on board civil aircraft of foreign countries in the territory of the Russian Federation

1. Aircraft documents on board civil aircraft of foreign countries shall be recognised as valid in the territory of the Russian Federation provided they comply with the international aviation standards recognised by the Russian Federation.
2. In making a landing in the territory of the Russian Federation civil aircraft of foreign countries can be subjected to inspection and checking of aircraft documents by authorised persons of the appropriate specially authorised bodies.

3. In cases where the established documents for international flights are not on board the civil aircraft of a foreign country or, where there is a reason to suspect malfunction of a particular aircraft, the specially authorised body in the field of civil aviation can suspend the departure of mis aircraft.

Article 82. Application of regulations regarding passports, customs and other issues in performing international flights

The regulations regarding passports, customs and other issues established in accordance with the legislation of the Russian Federation shall also apply to aircraft arriving in the Russian Federation, departing from the Russian Federation and en route with a stopover in the territory of the Russian Federation, their crews and passengers, as well as for the property, baggage, cargo and mail taken into the Russian Federation and taken out of the Russian Federation.

Extracts from Russian and CIS Aeronautical information publication (AIP)

GEN 1.2 ENTRY, TRANSIT AND DEPARTURE OF AIRCRAFT

1. General

1.1 Any flight on which an aircraft crosses the Russian Federation state border and that of another State is deemed to be an international flight.

1.2 The international flights of aircraft in the airspace of the Russian Federation are subdivided into:

-scheduled flights

-non-scheduled (single) flights.

1.3 The international flights of aircraft in the airspace of the Russian Federation shall be carried out only on the basis of issued permissions in accordance with conditions indicated in:

1) the international treaties on air service

2) permissions for carrying out single flights issued by the Federal Aviation Authority of the Ministry of Transport of the Russian Federation;

3) permissions for carrying out single flights legalized through the Ministry of the Russian Federation.

1.4 The obtained permission for flights is the basis for submitting the flight plan to the Main Air Traffic Flow Management Centre (MATFMC) in accordance with the procedure set forth in ENR 1.9 –ENR 1.11 sections of the present AIP.

3. NON-SCHEDULED FLIGHTS.

3.1 The flights not provided by the schedule and operated by aircraft of foreign states airlines in the airspace of the Russian Federation are deemed to be non-scheduled (single flights)

3.2 Non-scheduled (single) international flights shall be operated on the basis of permission issued on preliminary request of the airline.

3.3 The request for 1-4 non-scheduled flights per month along International airways and to the airports up-proved for the International flights shall be submitted not later than five full working days and for more than 4 flights – not later than 14 working days before flight operation, excluding Saturdays, Sundays and Public Holidays of the Russian Federation, unless otherwise is stipulated by appropriate International agreement.

3.4 The request for single flight shall be submitted in Russian or in English for airline choice to the International relations Department of Civil Aviation and copy to the Central Department of Operational Services of Civil Aviation from 00.00 to 16.00 (Moscow time) daily except Saturdays Sundays and Public Holidays of the Russian Federation to the addresses:

- 1.AFTN to UUKYAYX and to UUYAYW,
- 2.SITA to MOWYAYA and to MOWZGYA,
- 3.Fax (7-495) 921-00-65 and copy
to (7-495) 155-53-28

The request shall be sent via any of indicated 3 communication channels to both addresses simultaneously. Request sent to one address only, shall not be taken into consideration

3.5 The request for single flight shall be submitted in the application Form "N" The sample of Form "N" is presented on pages GEN 1 -11 and GFN 1 2-12.

In Individual cases the International Relations Department of Civil Aviation and Central Department of Operational Services of Civil Aviation can require another necessary information and confirmation documents from an applicant.

3.6 The permission for non-scheduled (single) flights is valid during 24 hours starting from sending time, Indicated in the permission.

3.7 Flights connected with force-majeure circumstances.

Requests for flights connected with force-majeure circumstances and also for flights operated for medical purpose shall be accepted by the Central Department of Operational Services of Civil Aviation (CDOS CA) round-the-clock via the addresses:

- 1.AFTN UUUUYAUW;
- 2.SITA MOWZGYA,
- 3.Fax- (7-495) 155-53 28

3.8 The request for aircraft ferry

The request for aircraft ferry in case of sale or dry-lease shall need additional agreement of appropriate divisions of Aviation Authorities of Russia and must be submitted according to the requirements stated above in para 3 4 and 3 5 The applicant shall be notified about the procedures of additional agreement separately. The request must be submitted not later than fourteen days before the beginning of aircraft ferry excluding Saturdays, Sundays and Public Holidays of the Russian Federation

3.9 Flight of state aviation

Requests for single flights of the state aviation of foreign states (including flights connected with transportation of official persons) and for single flights of experiment aviation of foreign states (including flights of air balloons, airships and other) shall be submitted via the diplomatic channels through the Ministry of Foreign Affairs of the Russian Federation.

The indicated request via the diplomatic channels shall be submitted in the form of the formalized application Form 'N' not later than fourteen days before the beginning of flight operation, excluding Saturdays, Sundays and Public Holidays of the Russian Federation

3.10 Flights of foreign aircraft outside the international Airways

It is necessary to use escort crew service for flights of foreign aircraft outside the international airways along domestic routes, when using aerodromes not approved for international flights and also during flights to aerodromes specified in the special list and published in part III "Aerodrome" (AD) section AD 1 A of the AIP of the Russian Federation.

The request for such flight must be submitted not later than 14 (fourteen) working days before flight operation beginning excluding Saturdays, Sundays and Public Holliday of the Russian Federation. An applicant shall be notified about agreed conditions and peculiarities of the flight operation via CDOS CA

3.11 Making an application through the intermediary

Whom making an application through the intermediary it is necessary to submit to the

International Relations department of Civil Aviation a valid legally authenticated document indicating the limits of power and responsibility of an intermediary, which he is invested by the airline

3.12 The application for flight operation submitted with infringement of the requirements and terms of submission stated in items 3 2-3 10 3 16 shall not be taken into consideration.

3.13 After processing of the application and making a decision on issuing permission for carrying out a non-scheduled (single) flight, an applicant shall be informed about the number of permission

3.14 The basis for conducting the requested non scheduled (single) flight is the obtained permission (its number and date) and flight plan accepted by MATFMC in accordance with the procedures set forth in ENR 1.9 – ENR 1.11 sections of the present AIP.

The flight plan can be submitted to MATFMC and to the addresses indicated in ENR 1 10 and the applicant has obtained ENR 1 11 only after the number of permission has been obtained by the applicant.

3.15 The permissions for foreign airlines to conduct any non-scheduled flights starting from the territory of the Russian Federation shall not be issued, unless otherwise is stipulated by bilateral agreement with a foreign state.

3.16 An application for operation of non-scheduled flights by foreign airline between the points in the Russian Federation and the points in the third countries or vice versa shall be submitted at least 14 full working days before the beginning of flight operation excluding Saturdays, Sundays and Public Holidays of the Russian Federation.

3.17 Permissions for carrying out single International flights of Russian airlines are issued on the basis of the valid national normative documents of the Russian Federation.