

LESSONS IN LIABILITY

Andrew Nicholson reveals why the Canadian court ruling on a downed Ukrainian flight will have huge implications for global aviation

A landmark court ruling in Canada in favour of the families of the victims of Ukraine International Airlines Flight PS752, shot down over Tehran by The Islamic Revolutionary Guard Corps in January 2020, marks a pivotal moment for world aviation safety and liability.

The judgement, issued by Ontario's Superior Court on 10 June, has significant implications for the entire aviation industry. Crucial for all airlines around the world, the court's finding that UIA has unlimited liability under the internationally recognised Montreal Convention calls for radical change if similar tragedies are to be avoided and airlines are not to face an existential risk of liability.

Flight PS752 was shot down shortly after departing Tehran airport, resulting in the loss of 176 lives. The aircraft was misidentified amid escalating tensions in the region. A risk assessment had been conducted days before, but it was not updated despite the rapidly changing security situation.

We are risk-assessing thousands of flights every day and are seeing the potential risks at close hand. All airlines, of course, prioritise the safety of passengers and crew, however the challenge of security in volatile regions is especially acute. Traditionally, airlines have relied heavily on guidance from regulators and governments regarding airspace safety and overflight risks. However, as this case clearly demonstrates, such information is often delayed, classified or influenced by political considerations. The outcome of the PS752 case underscores the growing risks and liabilities facing airlines and the industry rapidly needs to adjust to this.

The PS752 ruling comes at a time of heightened global tensions, underlining the urgency for improved risk

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management in aviation. In this case, it just happened to be Ukrainian Airlines, but to be frank it could have been any operator that was affected by this situation, it was not an airline-specific issue. What the Canadian ruling has shown is that the impact of such an event goes beyond the terrible tragic loss of life. Operators carry this risk of unlimited liability, making the need for mandatory risk assessments, for regulated, forward-looking, pre-emptive risk management a clear requirement in need of advocacy.

Every flight should undergo a thorough evaluation of potential threats. By integrating advanced technologies alongside a culture of proactive security management, airlines can better protect their passengers and crews,



preventing tragedies like PS752 from occurring in the future. This will mean ensuring all airlines have access to accurate and timely information about the security landscape, along with well-defined mitigation measures for emerging threats. Faced with litigation and as we've seen unlimited liability, auditable, ICAO-compliant trails of decision-making will become essential to demonstrate due diligence and accountability.

While the importance of adopting proactive risk management systems with a focus on real-time monitoring and decision-making has become increasingly clear, it is evident that not all aviation security teams have the capacity or resources to monitor the landscape continuously, let alone to run automatically updated risk assessments without technology. It is this degree of inconsistency in risk management practices that is exposing gaps in safety protocols, especially given the growing number of volatile regions around the world.

Recent advancements in technology have introduced robust solutions to these challenges, providing real-time visibility of evolving security situations that provide actionable intelligence. Osprey Flight Solutions assesses the risk for nearly 50,000 flights per day using a variety of these technologies, offering automated real-time assessments, delivering up-to-the-minute information that helps airlines manage risks more effectively. Proactive risk management is enabled by using predictive intelligence to identify changes in the risk environment. AI analytics and machine learning are integral in identifying patterns, trends and anomalies. This enables airlines to respond promptly to potential threats while gaining a comprehensive understanding of untreated and treated risk scores, supporting informed decision-making ●

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is Osprey's CEO.

Picture credit: Akbar Tavakoli/IRNA/AFP