

Rules concerning the Control of Wireless Telegraphy in Time of War and Air Warfare. Drafted by a Commission of Jurists at the Hague, December 1922 - February 1923.

FIRST PART

RULES FOR THE CONTROL OF WIRELESS TELEGRAPHY IN TIME OF WAR

Article 1. In time of war, the operation of wireless stations continues to be organized, so far as possible, in such manner as not to interfere with the service of other wireless stations. This rule does not apply to the wireless stations of the enemy.

Art. 2. The belligerent and neutral Powers may regulate or forbid the use of the wireless stations within their jurisdiction.

Art. 3. The installation or the operation of wireless stations, within a neutral jurisdiction, by a belligerent Power or by persons in its services, constitutes a violation of neutrality on the part of that belligerent as well as a breach of neutrality on the part of the neutral Power which permits the installation or the operation of such stations.

Art. 4. A neutral Power is not bound to restrict or to forbid the use of the wireless stations situated within its jurisdiction, save as far as this may be necessary to prevent the transmission of information, intended for a belligerent, concerning the military forces or military operations, and save the case provided for in Article 5.

Any restriction or prohibition enacted by a neutral Power shall apply to the belligerents uniformly.

Art. 5. Belligerent mobile wireless stations, when they are within a neutral jurisdiction, must abstain from any use of their wireless apparatus.

The neutral governments are bound to employ the means at their disposal in order to prevent such use.

Art. 6. 1. The wireless transmission, by an enemy or neutral vessel or aircraft while being on or above the high seas, of any military information intended for a belligerent's immediate use, shall be considered a hostile act exposing the vessel or aircraft to be fired at;

2. A neutral vessel or a neutral aircraft which, while being on the high seas or above the high seas, transmits an information destined to a belligerent concerning the military forces or operations, is liable to capture. The prize court may pronounce the confiscation of the ship or the aircraft if it deems the confiscation justified by the circumstances;

3. The period within which a neutral vessel or aircraft may be captured on account of the acts referred to in paragraphs 1. and 2. shall not end with the current voyage or flight, but only after the expiration of one year, reckoning from the day on which the incriminated act was committed.

Art.7. If a belligerent commander is of the opinion that the presence of vessels or aircraft provided with wireless apparatus in the immediate vicinity of his armed force or the use of such installations will endanger the success of the operations in which he is engaged, he may order the neutral vessels or aircraft on the high seas or above the high seas:

1. To alter their course so far as necessary in order to prevent them from approaching the armed force operating under his command;

2. To abstain from making use of their wireless apparatus when they are in the immediate vicinity of that force.

A neutral ship or a neutral aircraft which does not comply with the directions that it has received, exposes itself to be fired at. It shall also be liable to capture and can be confiscated if the prize court deems the confiscation justified by the circumstances.

Art. 8. Neutral mobile wireless stations shall abstain from keeping a written copy of wireless messages received from belligerent military wireless stations, unless such messages are destined for the said neutral stations.

The violation of this rule entitles the belligerents to confiscate the texts in question.

Art. 9. Belligerents are bound to conform to the rules contained in the International Conventions regarding distress signals and distress messages, so far as their military operations permit them to do so.

The provisions contained in the present regulations cannot dispense the belligerents from such obligation, or forbid the transmission of distress signals, distress messages and messages which are indispensable for the safety of navigation.

Art. 10. Diverting wireless distress signals or distress messages, prescribed by the International Conventions, from their normal and legitimate use, constitutes a violation of the laws of war for which its author is personally responsible in accordance with international Law.

Art. 11. Acts which, in other respects, do not constitute acts of espionage, are not considered as such for the mere fact that they imply an infringement of the present rules.

Art. 12. Wireless operators incur no personal responsibility for merely carrying out the orders received in the exercise of their functions.

PART II

RULES OF AIR WARFARE

CHAPTER I.- DOMAIN OF APPLICATION: CLASSIFICATION AND MARKS

Article 1. The rules of air warfare apply to all aircraft, whether lighter or heavier than air, without discriminating whether or not they are capable of floating on water.

Art. 2. Are to be considered as public aircraft:

- a) Military aircraft:
- b) Non-military aircraft, assigned exclusively to a public service.

Any other aircraft is considered as private aircraft.

Art. 3. A military aircraft must carry an exterior mark indicating its nationality and its military character.

Art. 4. A non-military public aircraft assigned to customs or police service must carry papers

attesting that it is exclusively used for a public service. Such aircraft must carry an exterior mark indicating its nationality and its non-military public character.

Art. 5. Non-military public aircraft other than those assigned to customs or police service must, in time of war, carry the same exterior marks and shall be treated, as regards the present rules, in the same manner as private aircraft.

Art. 6. Aircraft not contemplated in Articles 3 and 4 and considered as private aircraft shall carry such papers and exterior marks as are required by the rules in force in their own country. Such marks must indicate their nationality and their character.

Art. 7. The exterior marks required by the above articles shall be affixed in such manner as to make it impossible for them to be altered during flight. They shall be as large as possible and shall be visible from above, from below and from either side.

Art. 8. The exterior marks required by the regulations in force in each State shall be brought without delay to the knowledge of all the other Powers.

Modifications made in time of peace in the regulations requiring exterior marks shall be brought to the knowledge of all the other Powers before being put in force.

Modifications made in such regulations at the outbreak or in course of hostilities shall be brought by each Power to the knowledge of all the other Powers as soon as possible and at the latest when they are communicated to its fighting forces.

Art. 9. A belligerent non-military aircraft, whether public or private, may be transformed into a military aircraft provided that such transformation be made within the jurisdiction of the belligerent State to which the aircraft belongs, and not on the high seas.

Art. 10. No aircraft can possess more than one nationality.

CHAPTER II.- GENERAL PRINCIPLES

Art. 11. Outside the jurisdiction of any State, whether belligerent or neutral, all aircraft have full liberty to pass and to alight on water.

Art. 12. In time of war, every State, whether belligerent or neutral, may forbid or regulate the entry, the movements or the sojourn of aircrafts within its jurisdiction.

CHAPTER III.- BELLIGERENTS

Art. 13. Only military aircraft may exercise the rights of belligerents.

Art. 14. A military aircraft must be under the command of a person duly commissioned or matriculated military rolls of the State; the crew must be exclusively military.

Art. 15. The crews of military aircraft shall bear a fixed distinctive emblem of such a nature as to be recognizable at a distance in the event of crews finding themselves separated from the aircraft.

Art. 16. No aircraft other than a belligerent military aircraft may take part in hostilities in any

form whatever.

The term "hostilities" includes the transmission, during a flight, of military information for the immediate use of a belligerent.

No private aircraft may be armed in time of war outside the jurisdiction of its own country.

Art. 17. The principles laid down by the Geneva Conference of 1906 and under the Convention for the adaptation of the said Convention to maritime warfare (Convention X of 1907) shall apply to air warfare and to ambulance planes as well as to the control of such ambulance planes by belligerent commanders.

In order to enjoy the protection and the privileges granted to mobile sanitary units by the Geneva Convention of 1906, the ambulance planes must carry, in addition to their normal distinctive marks, the distinctive emblem of the Red Cross.

CHAPTER IV.- HOSTILITIES

Art. 18. The use of tracer projectiles, whether incendiary or explosive, by or against an aircraft is not forbidden.

This rule applies as well to the States which are parties to the Declaration of St.Petersburg of 1866, as to those which are not.

Art. 19. The use of false exterior marks is forbidden.

Art. 20. In the event of an aircraft being disabled, the persons trying to escape by means of parachutes must not be attacked during their descent.

Art. 21. The use of aircraft for propaganda purposes shall not be considered as an illicit means of warfare.

The members of the crew of such aircraft are not to be deprived of their rights as prisoners of war on the ground that they have committed such an act.

Bombardment

Art. 22. Any air bombardment for the purpose of terrorizing the civil population or destroying or damaging private property without military character or injuring non-combatants, is forbidden.

Art. 23. Any air bombardment carried out for the purpose of enforcing requisitions in kind or payments of contributions in ready money, is forbidden.

Art. 24. 1. An air bombardment is legitimate only when is directed against a military objective, i.e. an objective whereof the total or partial destruction would constitute an obvious military advantage for the belligerent;

2. Such bombardment is legitimate only when directed exclusively against the following objectives: military forces, military works, military establishments or depots, manufacturing plants constituting important and well-known centres for the production of arms, ammunition or characterized military supplies, lines of communication or of transport which are used for military purposes.

3. Any bombardment of cities, towns, villages, habitations and building which are not situated in the immediate vicinity of the operations of the land forces, is forbidden. Should the objectives specified in paragraph 2 be so situated that they could not be bombed but that an

undiscriminating bombardment of the civil population would result therefrom, the aircraft must abstain from bombing;

4. In the immediate vicinity of the operations of the land forces, the bombardment of cities, towns, villages, habitations and buildings is legitimate, provided there is a reasonable presumption that the military concentration is important enough to justify the bombardment, taking into account the danger to which the civil population will thus be exposed;

5. The belligerent State is bound to pay compensation for damage caused to persons or property, in violation of the provisions of this Article, by any one of his agents or any one of its military forces.

Art. 25. In bombardments by aircraft, all necessary steps should be taken by the commander to spare, as far as possible, buildings dedicated to public worship, art, science, and charitable purposes, historic monuments, hospital ships, hospitals and other places where the sick and wounded are gathered, provided that such buildings, objectives and places are not being used at the same time for military purposes. Such monuments, objects and places must be indicated, during the day, by signs visible from the aircraft. Using such signs to indicate buildings, objects or places other than those hereinbefore specified shall be considered a perfidious act. The signs of which the above mentioned use is to be made, shall be, in the case of buildings protected under the Geneva Convention, the red cross on a white ground and, in the case of the other protected buildings, a large rectangular panel divided diagonally into two triangles, the one white and the other black.

A belligerent who desired to ensure by night the protection of hospitals and other above mentioned privileged buildings, must take the necessary steps to make the aforesaid special signs sufficiently visible.

Art. 26. The following special rules have been adopted to permit the States to ensure a more efficient protection of monuments of great historic value situated on their territory provided they are disposed to abstain from using for military purposes not only such monuments and also the area surrounding them and to accept a special system for control to this end.

1. A State, if it deems it suitable, may establish a protected area around such monuments situated on its territory. In time of war, such areas shall be sheltered from bombardments;

2. Monuments around which such area is to be established, shall already be, in time of peace, the object of a notification addressed to the other Powers through the diplomatic channel; the notification shall also state the limits of such areas. This notification cannot be revoked in time of war;

3. The protected area may include, in addition to the space occupied by the monument or the group of monuments, a surrounding zone, the width of which may not exceed 500 metres from the periphery of the said space;

4. Marks well visible from the aircraft, both by day and by night, shall be employed to enable the belligerent aeronauts to identify the limits of the areas;

5. The marks placed on the monuments themselves shall be those mentioned in Article 25. The marks employed to indicate the areas surrounding the monuments shall be fixed by every State which accepts the provisions of this Article and shall be notified to the other Powers together with the list of the monuments and areas;

6. Every improper use of the marks referred to in paragraph 5 shall be considered an act of perfidy;

7. A State which accepts the provisions of this Article should abstain from making use of the historic monuments and the zone surrounding them for military purposes or for the benefit of its military organization in any manner whatsoever and should also abstain from committing, in the

interior of such monument or within such zone, any act for military purposes;

8. A commission of control, composed of three neutral representatives accredited to the State which has accepted the provisions of the present Article, or of their delegates, shall be appointed for the purpose of ascertaining that no violation of the provisions of Paragraph 7 has been committed. One of the members of this commission of control shall be the representative, or his delegate, of the State which has been entrusted with the interests of the other belligerent.

Espionage

Art. 27. An individual, found on board a belligerent or neutral aircraft, can be considered as a spy only when, during a flight acting clandestinely or on false pretences, he obtains or endeavours to obtain information within the belligerent jurisdiction or in the zone of operations of a belligerent, with the intention of communicating it to the hostile party.

Art. 28. Acts of espionage committed, after leaving the aircraft, by members of the crew of an aircraft or by passengers transported by it, remain subject to the provisions of the Regulations concerning the laws and customs of war on land.

Art. 29. The repression of acts of espionage referred to in Articles 27 and 28 is subject to Articles 30 and 31 of the Regulations respecting the laws and customs of war on land.

CHAPTER V.- ON MILITARY AUTHORITY OVER ENEMY AND NEUTRAL AIRCRAFT AND PERSONS ON BOARD

Art. 30. When a belligerent commander deems the presence of aircraft to be able to endanger the success of the operations in which he is engaged, he may forbid the passage of neutral aircraft in the immediate vicinity of his own forces or impose on them an itinerary. A neutral aircraft which does not comply with such prescription of which it has cognizance through a publication of the belligerent commander, exposes itself to being fired at.

Art. 31. In accordance with the principles of Article 53 of the Regulations respecting the laws and customs of war on land, private neutral aircraft found by a belligerent occupying force when entering an enemy jurisdiction, may be requisitioned under payment of a full indemnity.

Art. 32. Enemy public aircraft other than those which are treated on the same footing as private aircraft are liable to confiscation without prize proceedings.

Art. 33. Belligerent non-military aircraft, whether public or private, flying within the jurisdiction of their State, are exposed to being fired at if they do not land at the nearest suitable point when an enemy military aircraft is approaching.

Art. 34. Belligerent non-military aircraft, whether public or private, are liable to be fired upon, if they fly:

1. Within the jurisdiction of the enemy, or
2. In the immediate vicinity of such jurisdiction thereof and outside the jurisdiction of their own State, or
3. In the immediate vicinity of the military operations of the enemy by land or sea.

Art. 35. Neutral aircraft flying within the jurisdiction of a belligerent and warned of the approaching of military aircraft belonging to the other belligerent, must land at the nearest suitable point, failing which they expose themselves to being fired at.

Art. 36. When an enemy military aircraft falls into the hands of a belligerent, the members of the crew and the passengers, if any, may be made prisoners of war.

The same rule applies to members of the crew and to the passengers, if any, of an enemy non-military aircraft, except that in the case of public non-military aircraft exclusively employed for the transport of passengers, the latter are entitled to being released unless they be in the enemy's service or enemy subjects fit for military service.

If an enemy private aircraft falls into the hands of a belligerent, the members of the crew who are enemy subjects or neutral subjects in the enemy's service, may be made prisoners of war. The neutrals, members of the crew, who are not in the enemy's service, are entitled to being released, if they sign a written engagement to the effect that they will not serve on an enemy aircraft until the end of the hostilities. The passengers must be released unless they be in the enemy's service or enemy subjects fit for military service, in which cases they may be made prisoners of war.

The release may, in all cases, be postponed if the military interests of the belligerent require it.

The belligerent may keep as a prisoner of war every member of the crew or every passenger whose conduct during the flight at the end of which he has been arrested has been of a special and active assistance for the enemy.

The names of the persons released after signing the written engagement provided for in the third paragraph of the present article, shall be communicated to the other belligerent, who shall not employ them wittingly in violation of their engagement.

Art. 37. The members of the crew of a neutral aircraft who have been arrested by a belligerent shall be released unconditionally if they are neutral subjects and if they are not in the enemy's service. If they are enemy subjects or if they are in the enemy's service, they may be made prisoners of war.

The passengers must be released unless they are in the enemy's service or enemy subjects fit for military service, in which case they may be made prisoners of war.

The release may, in all cases, be postponed if the military interests of the belligerent require it.

The belligerent may retain as a prisoner of war every member of the crew or every passenger whose conduct during the flight at the end of which he has been arrested, was of a special active assistance to the enemy.

Art. 38. When the rules of Articles 37 and 37 provide that the members of the crew and the passengers may be made prisoners of war, it must be understood that, if they do not belong to the armed forces, they are entitled to a treatment which shall not be less favourable than that which is granted to prisoners of war.

CHAPTER VI.- DUTIES OF BELLIGERENTS TOWARDS NEUTRAL STATES AND DUTIES OF NEUTRALS TOWARDS BELLIGERENTS STATES.

Art. 39. Belligerent aircraft are bound to respect the rights of neutral Powers and to abstain, within the jurisdiction of a neutral State, from all acts which it is the duty of such State to prevent.

Art. 40. Belligerent military aircraft are forbidden to penetrate into the jurisdiction of a neutral

State.

Art. 41. Aircraft on board of warships, aircraft-carriers included, are considered as forming part of such ships.

Art. 42. A neutral Government is bound to use the means at its disposal to prevent belligerent military aircraft from entering its jurisdiction and to compel them to land or to alight on water if they have penetrated therein.

A neutral government is bound to employ the means at its disposal to intern every belligerent military aircraft which is found within its jurisdiction after landing or watering for whatever cause, as well as its crew and its passengers, if any.

Art. 43. The personnel of a disabled belligerent military aircraft who have been rescued outside the neutral territorial waters and brought into the jurisdiction of a neutral State by a neutral military aircraft and who have been landed there, shall be interned.

Art. 44. It is forbidden to a neutral government to supply a belligerent Power, whether directly or indirectly, with aircraft, component parts thereof or material or ammunition for aircraft.

Art. 45. Subject to the provisions of Article 46, a neutral Power is not bound to prevent the export or the transit of aircraft, component parts thereof or material or ammunition for aircraft, for the account of a belligerent.

Art. 46. A neutral government is bound to use the means at its disposal to:

1. Prevent the departure from its jurisdiction of an aircraft capable of perpetrating an attack against a belligerent Power, or carrying or accompanied by apparatus or material which could be assembled or utilized in such a way to enable it to perpetrate an attack, if there are reasons to believe that such aircraft is intended to be utilized against a belligerent Power;

2. Prevent the departure of an aircraft the crew of which includes any member of the fighting forces of a belligerent Power;

3. Prevent any work being carried out on an aircraft for the purpose of preparing its departure contrary to the objects of the present Article.

At the time of departure of any aircraft forwarded by airway to a belligerent Power by persons or corporations established within a neutral jurisdiction, the neutral government must prescribe for such aircraft a flying route avoiding the vicinity of the military operations of the other belligerent and must demand all the necessary guarantees to ascertain the itinerary followed by the aircraft to be the prescribed one.

Art. 47. A neutral State is bound to take the measures at its disposal to prevent aerial observations of the movements, operations and defense works of a belligerent from being made within its jurisdiction for the purpose of giving information to the other belligerent.

This rule also applies to a belligerent military aircraft on board a warship.

Art. 48. When a neutral Power, exercising its rights and performing its duties according to the present provisions, uses violence or any other means at its disposal, this cannot be considered as an act of hostility.

CHAPTER VII.- SEARCH, CAPTURE AND CONFISCATION

Art. 49. Private aircraft are liable to search and capture by belligerent military aircraft.

Art. 50. Belligerent military aircraft have the right to give order to public non-military aircraft to land or to alight on water, or to repair to a suitable and reasonably accessible place for the purpose of being searched.

The refusal, after warning, to obey the order to land or to alight on water at such place for the purpose of being searched, exposes the aircraft to being fired at.

Art. 51. Neutral non-military public aircraft other than those which must be treated as private aircraft are only subject to the investigation of their papers.

Art. 52. An enemy private aircraft is liable to capture in all circumstances.

Art.53. A neutral private aircraft is liable to capture:

a) If it resists the legitimate exercise of the rights of the belligerents;

b) If it violates an interdiction whereof it has cognizance through a publication of a belligerent commander
under the provision of Article 30:

c) If it is guilty of assistance to the enemy;

d) If it is armed, in time of war, outside the jurisdiction of its own country;

e) If it has no exterior marks or if it makes use of false marks;

f) If it has no papers or if its papers are insufficient or irregular;

g) If it is clearly out of the route between the point of departure and the point of destination indicated by its papers and if after such inquest as the belligerent may deem necessary, no reasons are given to justify such deviation. The aircraft as well as the members of the crew and the passengers, if any, may be retained by the belligerent during the inquest;

h) If it carries war contraband or must be considered as such itself;

i) If it tries to force a blockade duly established and effectively maintained;

k) If it has been transferred from the belligerent nationality to the neutral nationality at a date and under circumstances indicating the intention of escaping the risks to which an enemy aircraft is exposed as such.

Nevertheless, in each case, except that indicated under k), the reason of the capture must be an act committed during the flight in the course of which the aircraft has fallen into the hands of the belligerent, i.e. since it has left its point of departure and before it has reached its point of destination.

Art. 54. The papers of a private aircraft shall be considered insufficient or irregular if they do not establish the nationality of the aircraft and if they do not show the names and the nationality of each of the members of the crew and of the passengers, the point of departure and the destination of the flight, as well as precisions concerning the cargo and the condition on which it

is conveyed. The books of the aircraft are included therein,

Art. 55. The capture of an aircraft or of goods on board an aircraft shall be submitted to a prize court in order that any neutral complaint may be duly examined and judged.

Art. 56. A private aircraft captured because it has no exterior marks or because it has made use of false marks or because it is armed, in time of war, outside the jurisdiction of its own country, is liable to confiscation.

A neutral private aircraft captured on account of having violated the order given by a belligerent commander in virtue of the provisions of Article 30, is liable to confiscation unless it justifies its presence in the forbidden zone.

In all other case, the prize court adjudicating upon the validity of the capture of an aircraft, shall apply the same rules as it would to a merchant ship or to its cargo or to postal correspondence on board a merchant ship.

Art. 57. A private aircraft which after being searched turns out to be an enemy aircraft, may be destroyed if the belligerent commander deems it necessary, provided that all persons on board are previously placed in safety and all the papers of the aircraft are put in a safe place.

Art. 58. A private aircraft which after having been searched turns out to be neutral aircraft liable to confiscation on account of being guilty of hostile assistance or of being without exterior marks or of having carried false marks, may be destroyed if it is impossible to conduct it to the prize court or if such conduction might imperil the safety of the belligerent aircraft or the success of the operations in which it is engaged. In all cases other than those mentioned above, a neutral private aircraft may not be destroyed except in the event of a military necessity of extreme urgency which does not permit the commander to release it or to send it to the prize court for judgment.

Art. 59. Before a private aircraft is destroyed, all persons on board must be placed in safety and all the papers of the aircraft must be put in a safe place.

The captor who destroys a neutral private aircraft must submit the validity of the capture to the prize court and must, first of all, prove that he was entitled to destroy the aircraft under Article 58. If he fails to do so, the parties interested in the aircraft or in its cargo are entitled to compensation. If the capture of an aircraft the destruction of which has been held justified, is declared invalid, an indemnity must be paid to the parties interested in place of the restitution to which they would have been entitled.

Art. 60. If a neutral private aircraft has been captured for having carried contraband, the captor is at liberty to demand the handing over of the absolute contraband found on board or to proceed to the destruction of such absolute contraband, when the circumstances are such as to make it impossible to send the aircraft for judgment or if this would endanger the safety of the belligerent aircraft or the success of the operations in which it is engaged. The captor must enter the goods surrendered or destroyed in the logbook of the aircraft and, after having obtained the originals or the duplicates of the papers of the aircraft referring thereto, must allow the neutral aircraft to continue its flight.

The provisions of the second paragraph of Article 59 are applicable in the event of the absolute contraband on board of a neutral private aircraft having been surrendered or destroyed.

CHAPTER VIII.- DEFINITIONS

Art. 61. In the presents rules, the term "military" must be understood as referring to all

elements of the armed forces, i.e. land, naval and air forces.

Art. 62. Except in so far as special provisions are laid down in the present regulations and save the provisions of Chapter VII of the present regulations or the international conventions indicating that maritime law and its proceedings are applicable, the aeronautical personnel taking part in the hostilities is subject to the laws of war and of neutrality applicable to the land troops in virtue of the custom and practice on International Law as well as of the various declarations and conventions to which interested States are parties.