

Chinese Private Jet Legislation

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Abstract: Under the background of the epidemic, the traditional public transportation industry has been hit, which has brought challenges to the development of civil aviation but also brought opportunities to private aviation activities. The private aircraft market continues to heat up. Private jets show a good prospect for development, and many problems have emerged under the rapid development, such as the lack of a regulatory system for private jets and the laws governing the operation of private jets that have not yet been clarified. The tension between developments is difficult to straighten out. It is necessary to start from the current situation of private jet development in China and the main legal problems encountered, solve the main problems in the legal regulation of private jets, and establish and improve relevant systems in terms of private jet airspace management, route approval, safe operation, etc. And provide legal protection for the development of private jets.

Keywords: Private jet; Development; Regulation

1. Statement of problem: the Development Status and Main Problems of Private Jets in China

With the continuous influence of the global epidemic, the private jet market continues to grow as an emerging mode of transportation. Morgan Stanley data indicates that the frequency of private jet use in the United States will reach the highest level since 2008 in 2021, a 40% increase over the same period last year. The Chinese domestic market shows the same trend. Based on sales data from China Business Aviation Group, the volume of private jet transactions in China will increase significantly in 2021. There are 248 airports in China that are capable of cooperating with private jets to take off and land, including several airports for regular transportation, as stated in the AirAsia business jet fleet research report; mainland China also has the largest business jet fleet in the Asia-Pacific region.

At present, the private jet market in China is growing rapidly and has good prospects for development, but there is still no specific law to adjust the single type of private jet. According to the relevant provisions of Chinese "Civil Aviation Law" [1] ["Civil Aviation Law of the People's Republic of China" (Chairman's Order No. 57), hereinafter also referred to as "Aviation Law"], private aircraft are subject to general aviation flight management, which is different from general public flight travel. And the selected public transport aviation has higher flexibility and specialty. As one of the categories of general aviation, private jets are compared to helicopters, which belong to the same general aviation as private jets. Due to its small audience, low operation frequency, and lack of targeted management regulations, its current operation in the industry lacks standardized management.

2. The Current Main Legal System of Private Jet Regulation in China

Currently, most Chinese laws and regulations regarding private aircraft are uniformly categorized as part of general aviation management, such as the relevant provisions of the "Civil Aviation Law". Aside from military aircraft and large passenger aircraft, all other flying activities in China fall under the general aviation category. As a type of general aviation, private jets are mainly regulated by the "Aviation Law" on the scope of general aviation, the concept of general aviation, and the conditions that must be met for general aviation, as well as the registration license for operation and liability for damage. Although there is no special provision for the relevant content of private aircraft, the main general aviation-related content regulates it in judicial practice.

At the same time, in view of the particularity of private jets, in Chinese specific departmental regulations, there are also relevant provisions for general aviation with a higher-level concept as the management object. For example, the qualification certificates and related materials that need to be

prepared for private flying activities, the airports applicable to private aircraft, and the maintenance conditions of private aircraft are stipulated in the "Interim Regulations of the State Council on General Aviation Management". And at the same time, private aircraft are specified. The owner's flight activities are subject to the approval of the Civil Aviation Administration. In addition, the General Aviation Flight Control Regulations stipulate the approval and application content of the airspace, routes, and routes that private individuals fly when conducting flight activities, including the nature, altitude, and extent of the flight activity.

In addition, Chapter E of "General Operation and Flight Rules" and "Regulations on the Administration of General Aviation Business Licensing" issued by the Civil Aviation Administration regulate the rules, main conditions, operating conditions, and operating licensing procedures of private jet aviation activities, and clarify the operating The subject's legal responsibilities and business scope; The Civil Aviation Administration has made specific provisions in the "Regulations on the Administration of Non-operating General Aviation Registration" for the conditions that the owner should have when applying for registration for the purchase of private jets by individuals, as well as the relevant materials that need to be submitted to the regional civil aviation administration; In response to the non-commercial transportation requirements of civil aviation, the Civil Aviation Administration has added relevant provisions on the nature of civil aviation on the basis of the registration and establishment of traditional enterprises in the "Regulations on the Administration of Examination and Approval of General Aviation Enterprises", which are applicable to the establishment and modification of enterprises that operate or engage in private jet business. , termination and management of business licenses and other processes. Through the above-mentioned regulations, normative documents, and departmental regulations, it can be found that: at the regulatory level, the approval and application of private jets are currently written into the administrative regulations of general aviation in China. The Civil Aviation Administration has built a basic framework in terms of the nature, operation, management, and standards of private jets.

3. Defects in Chinese Private Jet Legislation and Regulation

In a systematic review of Chinese existing laws and regulations on private aircraft, it can be found that there is a lack of special legislation for private aircraft in Chinese current aviation legislation system, and more relevant management norms and operation regulations are integrated into general aviation management, and its upper classification system is the management regulation. There is no detailed subdivision management of various categories under general aviation. Although the Chinese legal system for general aviation has become more complete in recent years, China has successively promulgated laws and regulations for the emerging field - general aviation and initially formed a regulatory system with the Civil Aviation Law as the core. However, with the development of the Chinese private jet business and other specific areas of general aviation, the shortcomings of existing regulations that are difficult to clearly regulate their flight activities have gradually emerged. However, there are few special laws and regulations in the system to regulate the management of private aircraft, and the relevant content is not integrated into a series or a separate chapter for regulation, and the relevant regulations of private aircraft are mostly scattered in the laws and regulations regulating general aviation; In addition, more management norms for private aircraft are reflected in administrative regulations, and most of them are in the form of administrative management to adjust and allocate responsibilities for private aircraft-related operating norms.

A sound legal system and a reasonable legal structure are important guarantees for the sustainable and healthy development of private aviation activities [1]. In the private jet industry, one of the purposes of enacting complete laws is to promote and regulate the industry's development in an orderly manner. Formulating laws relating to private jets has the potential to further regulate social relations within the industry and promote social harmony and stable development in the long run. China does not have a complete set of laws and regulations regarding private jets. This situation has directly led to the internal disharmony of the relevant legal system, manifested by the inability to coordinate among laws, administrative regulations, local regulations, and rules of ministries and commissions, making it difficult and hindering the application of relevant laws. To some extent, this has contributed to the increasing prevalence of local and sectoral protectionism.

As a result, what are the specific problems and deficiencies of the Chinese private jet legislation?

First of all, there is a serious lack of laws and regulations on private aircraft in China, and there are a lot of blanks in the legislative field. Civil aviation-related fields, especially the general aviation field

where private jets are located, have immature legislative technologies and regulations. In China, there have been cases in which private jet accidents cannot be mediated according to the special department law. In 2015, a small plane, model CH570HD, crashed suddenly a few minutes after taking off in Anhui.[2] According to the investigation, the aircraft has not obtained the relevant airworthiness type approval certificate, production license, airworthiness certificate, nationality registration certificate and civil aircraft radio license stipulated by the Civil Aviation Administration. According to the general aviation related content of the "Aviation Law", the owner's identification and responsibility determination are carried out, but there is a lack of special departmental laws to coordinate the corresponding disputes.

In addition, the development status of Chinese private aircraft industry does not allow China to directly refer to the legislative methods of other private aircraft pioneering countries. The United States adopted the "Vision 100 Act" [3] unified legislation to coordinate airports, airspace, air traffic control and other aspects to reduce safety risks and improve general aviation flight efficiency; Germany also adopts a similar integrated DFS model to manage the use of airspace and other related content in a consistent manner, and most European countries also manage and regulate air traffic through the Single Sky Plan (SES). Compared with developed countries, the development of Chinese private jet and general aviation industry started late, and the supporting facilities and systems are not comprehensive, and there is still a big gap with the "mature" generally recognized in the industry. Therefore, it is clear that a one-way law dedicated to private jets "doesn't work".[4]

4. Construction of Chinese Private Jet Legislative Regulations

4.1. Suggestions on Amendments to Laws and Regulations

Chinese current laws and regulations on private aircraft are mainly reflected in the "Civil Aviation Law", but the "Civil Aviation Law" covers a wide range of areas, a considerable part of which are principles, only have a guiding role, not operational. In the field of private jets, the "Civil Aviation Law" can add a new article under the chapter of general aviation with the general content "Regulations on private aircraft aviation activities, formulated by the State Council", authorize and instruct the State Council to issue special private jet regulations to carry out all-round legal regulation on private jets. For the State Council, it can still choose to regulate the activities of private jets by directly promulgating administrative regulations or authorizing more professional authorities to formulate regulations, but no matter what form it is presented in, these administrative regulations and rules should include the following.

4.2. Legislative Proposals

Rationally allocate airspace management powers and further open up low-altitude airspace. In the Chinese current airspace management model, airspace control is relatively strict as a whole, and civil aviation has far less right to speak than military aviation. This "military-civilian separation, focusing on control" has restricted the development of civil aviation; Airspace management rules are not unified and the content is difficult to coordinate with each other, which reduces management efficiency. Low-level airspace opening can no longer meet the needs of civil aviation for airspace resources, especially general aviation for low-altitude airspace resources. Therefore, it is necessary to redistribute the power of airspace management reasonably, summarize and unify the existing rules of airspace management and make appropriate revisions and improvements through the introduction of new laws or regulations, relax airspace control, and improve the openness of low-altitude airspace. Solve the dilemma of the "difficulty in the sky" for private jets, and make the private jet market burst into vitality. In the process of managing the low-altitude airspace used by private jets, It should be particularly noted that the low-altitude airspace used by private aircraft is mainly distributed in areas with denser routes, therefore, we should focus on coordinating the relationship between private jet routes and airport clearance, public air transport routes, etc. to prevent accidents [5].

Second, establish and improve the private jet regulatory system. There are more than 100 civil aviation regulations promulgated by the Civil Aviation Administration and the State Council in China. Among them, there are much public aviation and general aviation regulations, and only a dozen or so are specifically applicable to general aviation. In addition, there are very few clearly regulated private flight activities. Private flight activities are usually carried out concerning general aviation activities, which lack pertinence and timeliness. Some documents are published in the form of notices, and their legal effect and enforcement force often have low binding force in practice. Private aviation activities are

different from commercial general aviation activities and general aviation for agriculture, forestry, animal husbandry, and by-fishing. Its implementation and development not only require extensive participation of the public but also requires coordination and cooperation between different aviation departments in the process, from aircraft purchase to implementation of the flight plan. At the same time, with the continuous development of the Chinese private jet business, different types of aircraft with different performances continue to enter the market. In existing Chinese regulations [6], such as the "General Aviation Flight Control Regulations", when classifying aircraft, only their use categories are considered, and specific aircraft parameters are not considered too much. In the face of the ever-increasing types and numbers of aircraft, if the general classification method is still applied, it will cause great hidden dangers to flight safety. Therefore, special laws and regulations should be established according to the particularity of private flying activities, the level of existing effective regulations should be improved, and different legal constraints should be imposed on the performance of different aircraft. Fully implement the content of the regulations to ensure the safety of private flying activities.

4.3. Improve the Relevant Supporting Mechanisms for the Legal Regulation of Private Aircraft

Procedures for route approval should be streamlined. When Chinese general aviation conducts aviation activities, it must first go through the process and reporting procedures of route approval, flight plan application, and flight plan execution. The duration of the flight can range from 15 hours to 45 days, and it must be approved by the military. Private aircraft hosting companies and private jet owners must also undergo a complex process before being permitted to operate on flights. Since private jet flights are not scheduled, the above process must be repeated for each take-off and landing, further compounding this problem's negative impact. Therefore, in the process of legal regulation of private aircraft, it is necessary to integrate and summarize the existing regulations on the approval of general aviation routes, maintain the necessary procedures applicable to private aircraft, and maximize the efficiency with which these procedures are implemented. At the same time, unnecessary programs are removed to reduce the burden of private jets. In addition, analogous to the current working methods of various government departments using the network platform, it is stipulated that private jets can use the Internet or APP to report flight plans in a unified manner, and each department will divide the labor for approval through the information uploaded to the platform by users, which can reduce the difficulty of the operation and improve the efficiency of approval, then providing benefits for the use of private jets.

5. Conclusion

Against the backdrop of the epidemic, traditional public transportation has been affected, which will pose challenges to civil aviation's development, but will also provide opportunities for private aviation. There has been an increase in the number of private aircraft on the market. A number of problems have emerged as a result of the rapid development of private jets, such as the lack of a regulatory system and a lack of clarity on the laws governing the operation of private jets, therefore, private jet development should be protected by law.

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References

- [1] China General Aviation Development Research Group. *Research on China's General Aviation Development* [J]. *Journal of Civil Aviation University of China*, 2003, 21(2):1-9.
- [2] Diao Weimin. *China's general aviation legal system and its improvement* [J]. *Journal of Beijing University of Aeronautics and Astronautics (Social Science Edition)*, 2009,22(2):42-6.
- [3] Dong Nianqing. *Analysis of the current situation and countermeasures of China's general aviation development* [J]. *Journal of Beijing Institute of Technology (Social Science Edition)*, 2014,16(1):110-7.
- [4] Li Rui. *Policy Text Analysis of Chinese Strategic Emerging Industry System - Taking the General Aviation Industry as an Example* [J]. *Science and Technology Management Research*, 2020, 16-0031-08
- [5] Lv Gang, Yang Fan. *Analysis on the role of government in the development of general aviation industry* [J]. *Architecture and Budget*, 2019, (11): 82-84.
- [6] Hu Xiaohong. *New exploration of research on the construction of the rule of law in general aviation - Review of "The Legal Research on the Reform of Low-altitude Airspace Management"* [J]. *Huaiyin Engineering Journal*, 2019, 28 (06): 31-35.