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the loss of Ukraine International Airlines flight PS752

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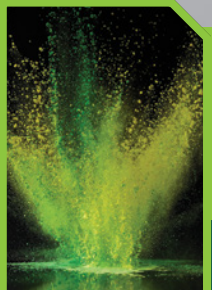
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THE LOSS OF UKRAINE INTERNATIONAL AIRLINES FLIGHT PS752:

A FAILURE OF RISK MANAGEMENT RATHER THAN MILITARY 'HUMAN ERROR'

by Philip Baum

On 8 January 2020, Ukraine International Airlines flight PS752 was cleared for take-off from Tehran's Imam Khomeini International Airport for its scheduled flight to Kiev. It departed at 06:12, almost an hour behind schedule, but it was never to reach its intended destination. The lives of 167 passengers and 9 crew members were to be extinguished when the Armed Forces of the Islamic Republic of Iran fired missiles "due to human error" towards the aircraft, allegedly believing it to be an incoming US cruise missile.

This was the latest military mistake to have catastrophic consequences for the aviation industry and, whilst air safety records are generally improving year on year, incompetence by armed forces has now become one of the greatest hazards for commercial aviation. And the main protagonists in the loss of PS752 will be only too aware of that. Ukraine, despite its good safety record, is, sadly, almost synonymous with the loss of aircraft due to military errors – since the turn of the century, it has been violator, venue and, now, victim.

On 4 October 2001, less than a month after the attacks of 11 September – hence

a period of high tension with the aviation community - it was the Ukrainian Air Force that accidentally shot down Siberia Airlines flight 1812 whilst it was en route from Tel Aviv to Novosibirsk.

According to a report by Professor Jacek Gieras, the "Ukraine defence forces were doing an exercise near the coastal city of Theodosia in the Crimea region. Missiles were fired from an S-200V missile battery.

A 5V28 missile missed the drone and exploded some 15m above the

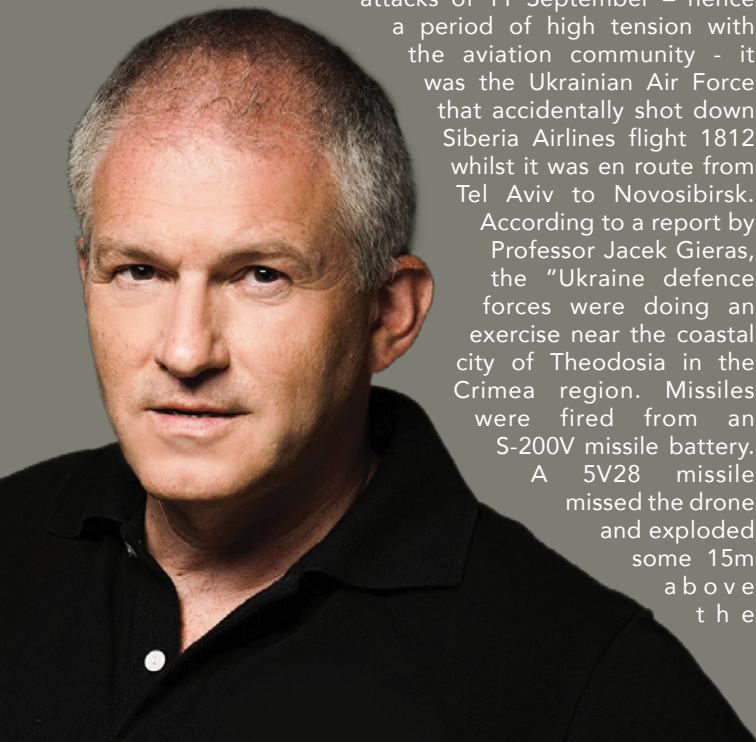
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Tu-154M. The aircraft sustained serious damage, resulting in a decompression of the passenger cabin." The aircraft plunged into the Black Sea, claiming all 78 souls on board.

More well-known of course is the destruction of Malaysia Airlines flight MH17 on 17 July 2014. The B777 was en route from Amsterdam to Kuala Lumpur when, in Ukrainian airspace, it was shot down by a Buk missile. A Joint Investigation Team (JIT), comprising officials from the Dutch Public Prosecution Service and the Dutch police, along with police and criminal justice authorities from Malaysia, Ukraine, Australia and Belgium, was formed to conduct the subsequent criminal investigation. The JIT established that the Buk missile installation that brought down the flight belonged to the Russian army; a trial is set to commence this March, albeit with the three Russians and one Ukrainian accused being tried *in absentia*.

Iran also has experience of a military error, which had catastrophic consequences for civil aviation. An Iranian aircraft was the target of a missile strike back in 1988 when the *USS Vincennes* shot down Iran Air flight 655 en route from Bandar Abbas to Dubai, allegedly mistaking the Airbus for a fighter jet. In the aftermath of the subsequent bombing of Pan Am flight 103 over Lockerbie in December 1988, those who argue that Iran was responsible for the bombing (and who, to this day, question any Libyan involvement) moot that it could well have been a retaliatory act sponsored by Iran against the US for the destruction of flight 655.

Save for establishing the facts, and holding those responsible accountable for their actions, achieving 'justice' for the victims of such incidents is of questionable value. Compensation is normally paid to the families of victims, but how much is a human life worth? \$200,000? It took until 1996 for the Americans to pay out over \$60 million, or just over \$213,000 per passenger, to the families of flight 655's victims, but they never admitted any legal liability. In a similar vein, Ukraine ended up paying \$200,000 to the families of each of the Israeli and Russian victims of flight 1812, yet the Ukrainians also stated that the settlements were made "as a humane action, not the admission of guilt".



So, yes, the families of the victims of flight PS752 will receive 'compensation', but perhaps an even greater gift would be ensuring that the industry, and governments, take steps to prevent such tragedies ever happening again.

Let's be clear, Iran bears 100% responsibility for the loss. There may have been 'circumstances', and it would be true to say that those lives lost on PS752 were collateral damage resulting from unrest in the region, but there are no extenuating circumstances that can excuse the action taken. Whether or not one agrees with the US decision to neutralise General Qasem Soleimani on 3 January, prompting the increase in tension within the Middle East and triggering the Iranian missile strikes against US facilities in Iraq four hours before the shooting down of PS752, to try to apportion blame to the US is pure political expediency.

The investigation is still in its very early stages. There is every reason to question Iran's ability to conduct a thorough, honest, and transparent enquiry given its initial reaction to the disaster. When it must have been abundantly clear to the administration that the flight had been brought down by an Iranian missile, Ali Abedzadeh, the head of Iran's Civil Aviation Authority, had the gall to claim that, "Scientifically, it is impossible that a missile hit the Ukrainian plane, and such rumours are illogical." The international aviation community, as well as States at a diplomatic level, must ensure that Iran is held to account.

Iran at least came clean and admitted, on 11 January, that its "Armed Forces' internal investigation has concluded that regrettably missiles fired due to human error caused the horrific crash of the Ukrainian plane & death of 176 innocent people. Investigations continue to identify & prosecute this great tragedy & unforgivable mistake." But this was not just human error.

The officer who, in the heat of the moment and possibly genuinely believing that Iran was being targeted by US missiles, may have erred, but it was the decision not to close its airspace that is actually unforgivable. Iran knew it was about to launch an attack on US bases in Iraq. Iran knew that the US might well respond with a tit-for-tat counter-attack. Iran knew, therefore, that civil aviation was at risk.

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Yet the airport remained open. Nine flights departed between the commencement of missile strikes in Iraq and the loss of PS752. Aeroflot had departed for Moscow, Qatar Airways to Doha and Turkish Airlines to Istanbul. So too had Iran Air and Mahan Air flights taken off. Ukraine International Airlines was the unlucky victim, partly because its captain had been diligent enough to off-load baggage as the aircraft was over its certified take-off weight – the reason for the hour delay in its departure. It seems, at this stage, that it could have been any flight caught in the crosshairs.

Aviation's current excellent safety record has been achieved by embracing an abundance of caution and never knowingly gambling on a flight not having a Buckley's Chance of being targeted. Where loopholes exist, they are acted upon, however remote the chance of tragedy occurring.



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Since the loss of MH17, the industry has been addressing the risk posed to civil aviation over, or near to, conflict zones. In 2016, ICAO published guidance materials entitled *Civil Aircraft Operations Over Conflict Zones* and, following a number of 'edits', this morphed into the current Document 10084, now in its second edition, entitled *Risk Assessment Manual for Civil Aircraft Operations Over or Near Conflict Zones*.

ICAO also established a centralised, web-based repository for information related to risks to civil aviation arising from conflict zones – the Conflict Zone Information Repository (CZIR) – but this was later abandoned as States were not posting information on it. It was just politically too sensitive and became untenable; the CZIR was devised on the basis that States would share their airspace threat assessments, but that, in many cases, meant States calling out allies in a very public forum. Meanwhile, there was enough open source information available and some States were posting their own aeronautical information relating to operations over or near conflict zones on their own websites, whilst also disseminating Notices to Airmen (NOTAMs) to relevant stakeholders.

Regional organisations such as the European Union Aviation Safety Agency (EASA) also publish bulletins. As an example, on 1 October 2019, EASA published a Conflict Zone Information Bulletin regarding Libyan airspace in which it said, "Due to the hazardous security situation, with the presence of terrorist organisations and ongoing high intensity military operations, there is a HIGH risk of both intentional and unintentional attacks to civil aviation at all altitudes. Air navigation services in the country could be degraded or unavailable."

Furthermore, commercial organisations, such as Osprey Flight Solutions and MedAire, are filling the threat information gaps by providing their clients with even more timely, detailed and therefore valuable intelligence to facilitate effective risk assessment.

The potential for military errors can, however, be easy to overlook in risk assessment. Many question why airlines had assessed it to be safe to operate

flights to Iran in the days following the death of Qasem Soleimani, yet the reality was that the 'action' was taking place in Iraq, not Iran. There was certainly a war of words between the US and Iran but Iranian airspace was not going to become endangered until Iran took the decision to carry out its attacks against US bases in Iraq.

Until those missiles were launched, it was more than reasonable for carriers to continue their operations to Iran – and to overfly the country. The Middle East in general has, since the dawn of aviation and indeed long before it, been an unstable region, but avoiding it is no easy task. It's not just a matter of cost by not operating the shortest route, it's also about the availability of (suitable) airports to divert to in case of emergency, the range of aircraft operating long-haul routes, flight connection times, crew operating hours, night time curfews at arrival and departure airports and weather. Furthermore, unlike ring roads around major population centres on the ground which are often notorious for their traffic jams, aircraft can't simply stop and wait when the air routes become too busy.

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States and airlines must continue to ensure effective risk assessment. That also means being able to make hasty decisions to file fresh flight plans and to determine that a departure might not be advisable due to the dynamic, ever-changing world we operate in. Whilst Iran may be culpable for the loss of PS752 given its failure to close its airspace when, according to General Amir Ali Hajizadeh the military had "requested several times that the country's airspace become clear of all flights," only to have such requests denied, airlines, too, need to consider whether they shouldn't have aborted all flight departures the moment Iran attacked the US bases. That requires 24/7 risk assessment but it also means thinking ahead as to what action should be taken should political tensions escalate. Sadly,

there was only a Buckley's Chance of disaster striking PS752 – but it did – and as a result, 176 innocent souls are in our thoughts and prayers. ■