

31 INTERNATIONAL AIR LAW – AIRSPACE RULES IN THREE DIMENSIONS

*Enikő Virág**

Sipos Attila: Nemzetközi légi jog – Szabályok három dimenzióban. Wolters Kluwer, Budapest, 2015.

Airspace, especially air transport, which plays an important role in the field of passenger transport and commercial freight transport as well, became integral part of human lifestyle owing to the rapid development of society and science. Air traffic made traveling easier for people, ensuring a smooth ride over vast distances around the globe in a short time. The legal system of aviation is a very young, autonomous field of international law, since it developed following the appearance of the first aircrafts. The airspace law at the national level has been a separate legal category ever since the appearance of the first auxiliary aircrafts, however, the basic and partly still effective international air law regulations were only developed in the 20th century.

Attila Sipos, international aviation and space lawyer, published his book called International Air Law – Airspace Rules in Three Dimensions (Nemzetközi légi jog – Szabályok három dimenzióban) at Wolters Kluwer in 2015. The author is currently lecturer at Eötvös Loránd University, Faculty of Law. He summarizes the rules of air law, one of the most complex fields of international law, using his knowledge and experiences obtained during his earlier domestic and international work experience.

The book cover (flight plan on a blue background) and its subtitle (“Airspace Rules in Three Dimensions”) provides a general picture of the essence of the book.

In terms of its structure, the book is divided into two big parts. In the first part, the author describes the public law aspect of international air law, putting great emphasis on the Chicago Convention on Air Transport (1944), which comprehensively regulates air traffic. In the second part of the book the author analyses the Montreal Convention (1999), which harmonizes the private law rules of aviation.

The public law part can be divided into 10 chapters. In the first two chapters, the author provides a brief overview of aviation and the history of the development of air law rules.

Chapters 3 to 8 discuss the Chicago Convention, a fundamental agreement regulating civil aviation. The Convention and its Appendix 19 are the basic legal source of the

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Chicago regime, containing the mandatory rules applicable to international civil aviation with the purpose of ensuring the safety and the global development of aviation. The author describes the Convention regulating the fundamental issues of international aviation through exploring points of conflicts and problems stemming from the different legal systems of various states. The author emphasizes that “international rules on aviation are to be treated as a unified system that provide framework-based regulation” and “[...] the Convention regulates the international dimension of civil aviation by setting up safety, security and technical minimum requirements for aviation in the relations between states, however, it leaves further [...] issues to bilateral air agreements” (p. 93). These chapters give an answer, *inter alia*, to the questions of what airspace is and where the boundary between national and international airspace lies. Furthermore, it describes the criteria for distinction between civilian and state aircrafts, and what flight rights and requirements apply to non-scheduled and scheduled flights. Nevertheless, in Chapter 8, with regard to the importance of aviation security, the author outlines additional international conventions for the protection of international airspace (Tokyo, Hague, Montreal, New York and the Beijing Convention).

The last two chapters of the first part (Chapters 9-10) focus on the specialized UN agency for air transport, the International Civil Aviation Organization (ICAO). The author, as a former Hungarian representative of the ICAO Council and former vice-president of the ICAO Council, presents the ICAO’s organizational structure, operational mechanism, purpose and most important tasks. The author places great emphasis on the legislative role of the ICAO Council and describes in detail the process of developing the standards and recommended practices set out in the Annex (SARPs).

The second part of the book can also be divided into 10 chapters. Chapter 1 helps the reader understand the context of the system of liability for damages discussed in the book.

Chapter 2 deals with the first and one of the most important treaties, the Warsaw Convention (1929). This convention is the basis of the Warsaw system and regulates the private law dimension of air transport. The Warsaw Convention provides for the uniform regulation of air carriers liability, presented by the author through case law analysis.

In the other chapters of the second part (Chapters 3 to 10) the author places a strong emphasis on the Montreal Convention. The Montreal Convention, which “governs” (p. 241.) the Warsaw system, modernized the Warsaw Convention by entirely replacing it. Although it is considered to be a new treaty, it transposed a number of legal institutions from the Warsaw Convention. It aims to harmonize the important rules of international air transport. It is also important to note that these “regulations are not only conflict rules, but also include the applicable law on legal relation, partly referring to and relying on domestic law” (p. 244). Contrary to the Warsaw system, the Montreal Convention favors the consumer (passenger, consignor or consignee of goods), thus, the air

carrier has absolute liability for accidents causing death or bodily injury to a passenger if they occurred on international flights. The air carrier has absolute, objective liability up to a maximum of 113,000 SDR, its liability cannot be limited or waived, however, in the event of an accident causing damage exceeding this limit the air carrier has unlimited liability. The Convention provides strict exemption rules for both cases, and the burden of proof is borne by the air carrier. In case a baggage is lost, destructed or damaged, goods or flights are delayed, the air carrier may be exempt from its limited liability. The provisions of the Montreal Convention regarding the compensation process are presented by the author by describing the relevant case law. Accordingly, the author presents the regulations on the most important issues in five stages.

In the first stage the author discusses the convention's rules on applicability (personal and substantive scope, jurisdiction); the second stage outlines the conditions under which the liability of air carriers is laid down or the absence of these conditions; in the third stage the exemption rules from liability are outlined; the fourth stage covers the rules of unlimited and limited liability; while the fifth stage summarizes the basic aspects of determining the amount of the compensation itself.

The book is a very good summary of international civil aviation regulations. The author presents in detail the most important conventions, as well as the relevant factors and events influencing the development of existing regulations in the field of international civil aviation. The author discusses the theoretical and practical issues raised by international aviation by involving the reader as well, which makes the book even more interesting. The book covers an exciting topic and will attract the attention of both professionals dealing with air law and reader from a wider audience interested in aviation.