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THE LIFE AND WORK OF PROFESSOR VLADIMÍR MANDL - A PIONEER OF SPACE LAW

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In an excellent lecture “A Concise History of Space Law” presented by Dr. Stephen E. Doyle (USA, Honorary Director of the International Institute of Space Law) at the 61st International Astronautical Congress in Prague, 2010, the speaker mentioned the name of a Czech lawyer, Professor Vladimír Mandl, as author of the world’s first comprehensive survey of space law.¹ On that occasion, Dr. Doyle referred to my special contribution on the life and work of this pioneer of space law, which dealt with this subject in some greater detail. Its text follows.

Vladimír Mandl was born on 20 March 1899 as son of Dr. Matous Mandl, an estimable attorney-at-law in Plzen (Pilsen), the city, which was at that time apart of the Austrian-Hungarian monarchy and since 1918 became one of major industrial cities of Czechoslovakia (now The Czech Republic). After studies at the Pilsner high school, Vladimír Mandl entered the Czech Faculty of Law, Charles University of Prague, where he graduated on 21 November 1921. He first practiced at a district court in Prague, but later on, having successfully passed the advocate examinations, he opened his own legal office in Pilsen. Thus, though he was originally thinking of engineering studies, he decided to follow his father’s legal career.

At the Law Faculty in Prague, he became a member of the seminar on civil law procedure, which was led by an outstanding scholar, Professor Václav Hora. In 1926, Mandl wrote a monograph on Czechoslovak civil law. Nevertheless, his original technical vocation soon turned his interest to legal problems created by industrial and technological developments of the 1920s and 1930s. At first, he published a series of articles, and in 1929 a monograph, on legal aspects of motor vehicles.² Then, it was natural that his attention was drawn to aviation, which led him to write a monograph on air law

published in Pilsen, 1928.³ His work was in fact the first treatise on this subject written in Czech language. Another of his air law studies was printed in German under the title “Das tschechoslowakische Luftverkehrsrecht (Czechoslovak Law of Aviation)”. Later on, Mandl also published some articles in the French journal of air law.⁴ His literary involvement in the field of aviation and air law was followed by a practical step. Like some other air law scholars, he acquired a pilot license.

Vladimír Mandl submitted his study on air law as a habilitation thesis in order to become a docent at the faculty of Mechanical and Electrical Engineering, Czech Technical University of Prague. Documents deposited in the Archives of the Universities of Prague give evidence that Mandl’s knowledge and scholarly work received high evaluations by the Accreditation Commission to the end that he received the unanimous approval of the examiners. On 30 April 1930, he delivered a test lecture before the Board of Professors of the Faculty on “Liability of Contractors for Damage”, a subject that was discussed at that time because of the conclusion of the 1929 Warsaw Convention on Unification of Certain Rules for the Liability of International Air Transport Operators. And on 30 September 1932 the granting of *venia docendi* for the subject “Law of Industrial Enterprises” by the Faculty was confirmed by the Czechoslovak Minister of Education.⁵

In the meantime, Vladimír Mandl passed his postgraduate studies at the Faculty of Law of the University of Erlangen (Germany), where he worked out and successfully defended the thesis “Zivilistischer Aufbau des Schadenersatzrechtes” (The Civil Law Structure of the Right of

¹ Stephen E. Doyle, “A Concise History of Space Law”, 2010 *Proceedings of the IISL* (forthcoming 2010).

² “Automobilový zákon z 9. srpna 1908 a jeho reforma (The Automobile Act of August 9, 1908 and Its Reform), Praha, 1929.

³ “Letecké právo” (Air Law), Plzen, 1928.

⁴ E.g. “Le Parachute” dans *La revue générale de droit aérien*, Paris, Nos 2, 3, 4/1935.

⁵ Decree of the Minister of Education No. 89212/1-IV/3 of September 30, 1932. More about Mandl’s habilitation and appointment in V. Kopal, “Vladimír Mandl - Founder of Space Law”, *Proceedings of the Eleventh Colloquium on the Law of Outer Space*, International Institute of Space Law of the IAF, October 17-18, 1968, New York, p. 358.

Indemnification). On this basis he was granted another doctorate at that University in 1932.⁶

By that time, Mandl was already much occupied by a new field of human technical endeavors – the rise and development of activities in outer space. Influenced by the publications of the contemporary thinkers on rockets as the means for access to space, Mandl finished in 1932 two works. One was “Problem mezihvezdne dopravy” (The Problem of Interstellar Transport), which was published in Czech in Prague.⁷ It also included Mandl’s design of a high-altitude rocket on the basis of which he applied for and was granted a patent.⁸ The other was a monograph on legal problems of space activities that he wrote in German, in order to offer his ideas and conclusions to a wider circle of readers in Europe. It was not possible to find a publisher for his legal study in Czechoslovakia. Neither was it easy to do so in Germany. Finally, he found a German publisher, which, however, agreed to print it at Mandl’s own cost. About 25 copies of the 500 printed pieces were really sold.

Vladimír Mandl’s monographical study “Das Weltraum-Recht: Ein Problem der Raumfahrt (The Law of Outer Space: A Problem of Space Flight)”⁹ may be assessed as his most significant work by which its author entered the history of astronautics and particularly of space law. In this concise monograph, having only forty-eight printed pages, he enshrined his thoughts on the legal regulation of future space activities, many of which have not lost their relevance up to date and reflect in the present legal regime of outer space.

Attention should be drawn first to his concept of the law of outer space as an independent legal branch, based on specific instruments of space flights and governed by different principles than are those of the law of the sea or the law of the air. Although Mandl did not underestimate the examples of the other legal branches for analogies in special cases, he stressed the need for a specific regulation of legal problems of astronautics. From this point of view he considered in the first part of his

monograph problems of civil, criminal and international law nature.

Not less interesting is the second part of the study, called “Future”. It is not a kind of science-fiction, but a number of serious prognoses which in our age become apart of reality. For example, Mandl rejected the then usual idea of sovereignty in space without limits and affirmed that sovereignty of States applies only to the atmospheric space. Beyond the “territorial spaces” a vast area begins which is “independent on any terrestrial State power and is *coelum liberum*”.¹⁰

The concluding part of Mandl’s considerations is preceded by his prediction of a new surprising progress in physics, chemistry and engineering which will correspond to a similar epoch of the 19th century – in fact a vision of the scientific and technical revolution of our times. Moreover, as a consequence of penetration of mankind into outer space, Mandl envisaged a substantive change of relations between the State and its nationals, which would not be based on State domination, so that both the State and its nationals would become equal subjects. According to Mandl, the territory will lose its importance as one of the basic elements of each State and new national communities consisting of personal elements only will emerge. People will retain such new nationality when going to outer space and other planets. Finally, space law will become a new set of norms which will be “quite a different phenomenon than is the present law of jurists.”¹¹

Starting from the academic year 1933-34, Professor Mandl was teaching his course on the Law of Industrial Enterprises at the Czech Technical University in Prague. His last lectures are recorded in the University curricula for the academic year 1938-39. In March 1939, the troops of Nazi Germany invaded the Czech part of Czechoslovakia and in November the same year, all Czech universities were closed by the occupants. Thus Vladimír Mandl’s teaching was also terminated.

He still continued his participation in the then efforts of Czech scholars and engineers to build a National Technical Museum in Prague by search of documents and collection of objects for the aeronautical part of the Museum, which he started during the second half of the 1930s. At that period, Mandl also visited and reported on the foreign air collections, such as the Air Museum in Moscow (1937) and the Smithsonian

⁶ G. Reintanz, uVladimír Mandl -Father of Space Law”, *ibidem*, p. 363.

⁷ “Problem mezihvezdne dopravy” (The Problem of Interstellar Transport), Praha, 1932.

⁸ Patent 52236, Class 45d, granted in Czechoslovakia on 25 September 1933.

⁹ “Das Weltraum-Recht: Ein Problem der Raumfahrt. Von Dr. jur. Vladimír Mandl, Rechtsanwalt in Pilsen” (The Space Law: A Problem of Space Flights), 1932, J. Bensheimer, Mannheim – Berlin –Leipzig.

¹⁰ *Ibidem*, p. 33.

¹¹ *Ibidem*, p. 48.

Institution in Washington (1938). Of course, he was also familiar with the aeronautical collections in Paris and Munich. He was still thinking about the aeronautical collection in Prague during his “involuntary holidays”, as he called it in a letter from the tuberculosis sanatorium in Ples near Prague.

During 1940, his health condition was deteriorating. Professor Mandl died on 8 January 1941 in his age of uncompleted forty-two years and was buried at the Central Cemetery in Pilsen.

Vladimír Mandl was the first author who approached future legal problems of space flights as a legal scholar and attempted to establish a system of ideas and legal principles to govern space activities 25 years before their real beginning. Therefore, it was agreed by the Board of Directors of the International Institute of Space Law to hold in his memory the finale of the 19th Manfred Lachs Space Law Moot Court Competition in the city of Plzen (Pilsen), where Vladimír Mandl was born and worked for most of the years of his life.