

The Development of International Air Law under the Auspices of ICAO

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2019 marks several anniversaries for international civil aviation

- 100 years of the Paris Convention
- 75 years of the Chicago Convention
- 40th Session of the Assembly



Comparison Paris and Chicago Conventions



Paris Convention of 1919, as amended in 1929

Article 1: “every Power has complete and exclusive sovereignty over the air space above its territory.”

Article 15 al 2: “No aircraft of a contracting State capable of being flown without a pilot shall, except by special authorization, fly without a pilot over the territory of another contracting State. ”



Chicago Convention of 1944

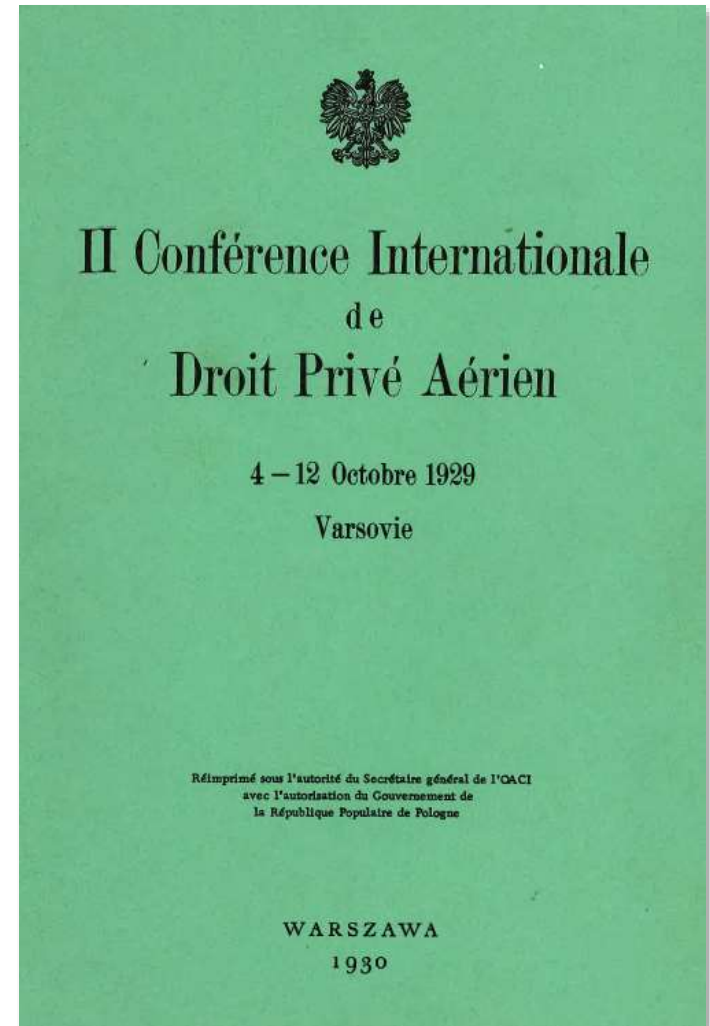
Article 1: “every State has complete and exclusive sovereignty over the airspace above its territory.”

Article 8: “No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State”

Comité International Technique d'Experts Juridiques Aériens (CITEJA)

- Held sixteen sessions between 1926 and 1947
- Prepared the following draft Conventions:
 - Warsaw Convention of 1929 on aircraft liability
 - Rome Convention of 1933 on damages caused by aircraft to third parties on the surface
 - Rome Convention of 1933 on precautionary attachment of aircraft
 - Brussels Protocol of 1938 additional to the Convention on damages to third parties
 - Brussels Convention of 1938 relating to assistance and salvage of aircraft or aircraft at sea.

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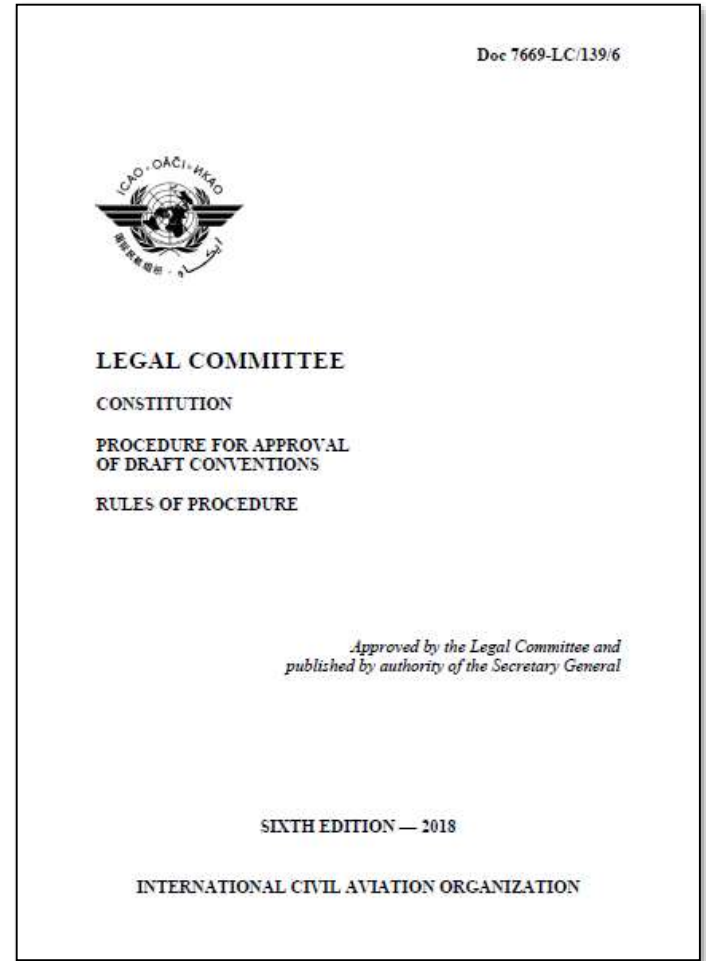
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CAAS

ICAO Legal Committee

- Established in 1947 by the first session of the Assembly
- Open to all ICAO Member States
- Main duties and functions:
 - to make recommendations on matters relating to public international air law
 - to study problems relating to private air law affecting international civil aviation
 - to prepare drafts of international air law conventions

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Private International Air Law Instruments

Montreal Convention of 1999

- Liability of the carrier for death and injury of passengers, destruction or damage to cargo, for checked baggage, as well as for delay in the carriage of passengers, baggage and cargo

Rome Convention 1952 and General Risks Convention 2009

- Liability of carrier for damage caused on the ground

Unlawful Interference Compensation Convention 2009

- Liability for damage to third parties caused by an aircraft in flight on an international flight, as a result of an act of unlawful interference

Geneva Convention 1948

- International recognition of rights in aircraft

Cape Town Convention and Aircraft Protocol 2001

- Framework to facilitate cross-border and asset-based financing of aircraft

Public International Air Law Instruments

Tokyo Convention 1963 and Montreal Protocol 2014

- Offences and other acts committed on board aircraft, including unruly behaviour
- Extension of legal recognition to and certain protections to in-flight security officers

The Hague Convention 1970

- Suppression of hijacking

Montreal Convention 1971 and the VIA Protocol 1988

- Other unlawful acts against the safety of civil aviation, and for the suppression of unlawful acts of violence at airports

Beijing Convention and Protocol 2010

- Suppression of the act of using civil aircraft as a weapon of destruction, and the act of using biological, chemical or nuclear material against civil aviation
- Criminal liability of directors and organizers of an offence, as well as the liability of those who knowingly assist an offender to evade investigation, prosecution or punishment

MEX Convention 1991

- Marking of plastic explosives for purposes of detection

ICAO Functions and Legal Advice

- Legislative Function
- Judicial Function
- Executive Function

New Dangers to Civil Aviation

- Man-made dangers (e.g. use of force, unlawful seizure of aircraft)
- Civil aviation remains a target of choice for terrorists
- Violent acts against civil aviation constitute a worldwide problem not limited by geographic or political boundaries



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Article 1 (d) of the Montreal Convention

Article 1

1. Any person commits an offence if that person unlawfully and intentionally:

...

(d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight;

Air Navigation Facilities

Article 2, paragraph (c)
of the Beijing Convention

“Air navigation facilities”
include signals, data,
information or systems
necessary for the
navigation of the aircraft;

ICAO's Law Making Activities



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Malaysian Airliner MH-17

*The Security Council,
Deploring the downing of a
civilian aircraft on an
international flight, Malaysia
Airlines flight MH17, on 17
July in Donetsk Oblast,
Ukraine, with the loss of all
298 passengers and crew on
board,*

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International Air Law course

- **Goal:** To enable representatives of civil aviation authorities, airports and air navigation service providers to support their organization in compliance with international air law through the application of appropriate knowledge gained in case discussions.
- **Upon completion of the course,** participants will be able to accomplish the following:
 - learn the concepts and rules of international air law;
 - explain the relevance of the rules and procedures of international air law for their own role and functions in their organization; and
 - apply their knowledge and understanding to assist their national administration in improving implementation.
- **Target audience:** lawyers and administrators or managers with or without legal education from Civil Aviation Administrations, Civil Aviation Authorities and Airports and Air Navigation Service Providers of Member States.
- **Language:** English
- **Mastery test**
- **Next delivery:** 10-14 June 2019, Montréal, Canada

INTERNATIONAL AIR LAW

Regulation of new and emerging modes of aerial transportation



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Aviation Safety is a Common Concern



For any information on the ratification of ICAO air law treaties please do not hesitate to contact the Legal Affairs and External Relations Bureau at: treaties@icao.int

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