

AUSTRIA

PRELIMINARY

The Austrian Aviation Law of December 2, 1957 was the first Austrian legislation on aviation since World War II. In 1938, when Austria was annexed to the German Reich, the Austrian aviation laws were replaced by the German laws. Thus, before the 1958 law was enacted, the German aviation laws were theoretically still in force. Since Austria adhered to the Chicago Convention with effect from September 26, 1948, there was the problem of reconciling the Convention with some conflicting provisions of the German law. However, in Austria, as in other "civil law" countries, a ratified international convention becomes the law of the land even without implementing legislation and it prevails over any conflicting provisions of the internal law. In any event, the new aviation law has clarified the situation.

FEDERAL LAW OF DECEMBER 2, 1957 CONCERNING AVIATION (AVIATION LAW)¹

The National Council has enacted:

PART I—GENERAL PROVISIONS

Section 1. Civil Aviation and Military Aviation.

Civil aviation within the meaning of this Federal law shall be all aviation with the exception of military aviation. Military aviation shall be aviation serving national defense.

Section 2. Freedom of the Air Space.

The use of the air space by aircraft and flight contrivances shall be free unless otherwise provided for by this Federal law.

Section 3. Controlled Areas of the Air Space.

(1) A controlled area shall be an area of the air space bounded on all sides which is controlled by the Federal Civil Aviation Office in accordance with the ordinance to be issued under Section 124 and in which aircraft may fly only in accordance with the traffic regulations issued for such areas.

(2) The Federal Ministry of Transport and Electric Power in concurrence with the Federal Ministry of National Defense, shall establish by ordinance controlled areas in accordance with the requirements of traffic safety.

¹ Published in Bundesgesetzblatt (Federal Law Gazette), December 12, 1957, p. 1403.