

POLAND

PRELIMINARY

Two legal enactments have regulated air law in Poland. One was promulgated by the Decree of the President of the Republic of March 14, 1928. (*Dziennik Ustaw*) No. 31, Law No. 294, repromulgated in 1935, *Dz. U.* No. 69, Law No. 437, amended in 1945 *Dz. U.* No. 50, Law No. 282, and the other is the Statute of May 31, 1962, *Dz. U.* No. 32, Law No. 153, which superseded the law of 1928. Both these legislative acts originated in different epochs with respect to technical developments, economic systems, and political and international relations.

The speed of aircraft increased and new media reaching outer space were invented. Prewar private enterprise was replaced in Poland by the postwar government-controlled economic system. As a consequence, while under the law of 1928 private air carriers were licensed and subject only to administrative supervision by the government, under the law of 1962, air carriers are owned and operated by the government. Aviation conventions, the principles of which had been incorporated in the law of 1928, were superseded or modified by the new laws. New air laws by other communist countries, particularly that of the Soviet Union, were enacted which had to be taken into account by the framers of the Polish air law. All these new elements affected the new Polish air law. Some of them, such as the regulation of sovereignty in the air space, the definition of aircraft, conflict of laws, civil liability and the correlation of the air law with the international agreements to which Poland is a party, required special attention.

The new law continues the prewar Polish air law provision in regard to the generally prevailing principle of the "sovereign powers in the air space above the land territory, inland waters and territorial sea". No vertical air ceiling was established. Sovereign rights in the "air space" as formulated by the law permits elastic interpretation which may be applied to the flight of regular aircraft up to any altitude of the atmosphere surrounding the globe. Thus, the law avoided to solve the problem of political and scientific discussion whether the flights of artificial satellites and rockets constitute a violation of sovereignty of the air space of subjacent states.

In accordance with technical development at that time, the term "aircraft" was limited by the old law, to balloons, gliders and aircraft. A more comprehensive definition is given in the new law: any device designed for the transportation of persons and goods in the air capable of flying in the air space as a consequence of the reaction of the air is considered an aircraft. Moreover, The Council of Ministers is authorized to include in "aircraft" any devices capable of flight in the air but not designed for the transportation of persons or goods and devices capable of flight in space irrespective of