

Association (IATA) and cooperation with the regional air organizations affected the Polish air law in various forms which may be summarized as follows:

The provisions of the Chicago Convention of 1944 concerning registration of aircraft, documents, admission of foreign aircraft to the Polish air space, and prosecution of offenses violating air traffic provisions, are incorporated in the Polish air law. Similarly included are provisions of the Chicago Convention and of the Rome Convention of 1933, with respect to exclusion of aircraft from attachment. Provisions of the Warsaw Convention of 1929 were incorporated to a large extent, in the air law which also includes transports not subject to the Convention, and domestic transport action in particular. Even principles of some conventions to which Poland is not a party or which did not take effect as yet, are included in the Polish air law. To this group belong rescue operations on the high seas taken from the Brussels Convention of 1938; the applicability of the law of the nationality of the aircraft with respect to property rights taken from the Geneva Convention 1948; some provisions of the Rome Convention of 1952, and some provisions of the 1955 Hague Protocol which changed the Warsaw Convention, and finally, the basic principles of the 1961 Guadalajara Convention. Even drafts of new conventions affected the formulation of the new law as, for instance, provisions concerning the jurisdiction of the commander of the aircraft or the legal status of the crew.

Liability for damage connected with air traffic or air transport is governed by general rules of civil law, supplemented or modified by the air law. Two kinds of liability are of a special significance.

The first group of provisions applies to damage caused to third persons not in privity of contract with the air carrier. Under the former law the absence of negligence relieved the air carrier from liability. The new law based his liability on the principle of risk by the air carrier. The only deviation from this rule is the provision excluding the liability where the damage resulted from the flight of the aircraft performed in compliance with the law. Thus, damage caused by the noise of the flying aircraft will not make the air carrier liable unless the provisions regulating air traffic, such as, for instance, altitude of flight, are violated. The protection of the interests of the citizens in this respect is transferred to public law.

The second group of provisions applies to damage caused by air transport. The new law incorporated the basic principles of the Warsaw Convention regulating these damages. The liability is based on the doctrine of the presumed negligence of the carrier, who, in order to rebut the presumption has to prove that he applied all precautionary measures to avoid the damage. For damage caused to property transported under the passenger's care, the carrier is liable only if negligence is proved.

The new law upholds the system of limited liability for damages in air transport up to the amount stipulated in the conventions. The amounts specified by the law may be increased by contract; they cannot, however, be decreased. Limitations will not be applied if it is proved that the damage was inflicted intentionally or by gross negligence.

The provisions concerning liability also apply to damage caused by delay in transportation of the time of delivery was fixed.