

The Air Code of 1961 does not provide any criterion for the solution of the problem how far up state sovereignty extends over the air space. The Code reproduces, with some changes, the old formula that the Soviet Union has exclusive sovereignty over the territory and territorial waters of the U.S.S.R. After the launching of the first sputniks, Soviet legal writers such as Kovalev and Cheprov have expressed the opinion that extension of sovereignty to infinity contradicts common sense. A great majority of Soviet authors (*e.g.* Korovin, Osnitskaia, Zhukov, Kovalev, and Cheprov) agree that outer space is free from sovereignty of any state; however, they disagree on the criterion for the establishment of the limits of sovereignty. Among the more recent efforts to establish such a limit, should be mentioned that of Zadorozhnyi who, in an article included in the book "Cosmos and the International Law", published by the Commission on Legal Questions of Interplanetary Space, attached to the Academy of Sciences of the U.S.S.R., in 1962, expressed the opinion that the limits of sovereignty over the air space extend to the perigy of an orbit where the space vehicle does not encounter air resistance which would force it to descend to earth, and that beyond these limits begins outer space, free from the sovereignty of any state.

The most important innovations of the new Code are the provisions relating to liability for damages. The problem of liability is of particular importance because the Air Code of 1961 introduced the new rules, enumerated in the new Basic Principles of Civil Law, enacted in December 8, 1961 and effective May 1, 1962.

The Basic Principles of Civil Law, like the Civil Code of the R.S.F.S.R., contain rules on general liability and on liability for particular hazards. The old rules of the Civil Code on general liability were not precise and, therefore, were subject to various interpretations. At first, it was pointed out that liability was based upon causation; later this concept was abandoned, and finally, the Soviet courts and legal writers arrived at the conclusion that liability for damages is conditioned upon fault. This solution was adopted in the new Basic Principles of Civil Law. The pertinent articles read as follows:

"Article 37. *Fault as a condition of liability for breach of obligations.*

"A person who does not perform his obligation or performs it in an improper way, shall be liable (Article 36 of the present Basic Principle) only in case of fault (intent or negligence), unless it is otherwise established in law or in an agreement. The absence of fault shall be proved by a person who breaches his obligation.

"If non-performance or improper performance was caused by the fault of both parties, a court, government arbitration board, or arbitration court shall reduce the liability of the debtor accordingly."

"Article 90. *Liability for injury inflicted by the source of increased hazard.*

"Organizations and citizens whose activities involve hazard to persons coming into contact with them (transportation organizations, industrial or construction enterprises, owners of cars, etc.) shall be liable for injury caused by the source of increased hazard unless they prove that the injury was the result of *force majeure* or of intent of the injured person."