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DELIMITATION LEGAL PROBLEM IN THE SPHERE OF AVIATION AND SPACE LAW

In modern conditions of the acceleration of technological progress in the field of space there is a formation of new kinds of space relations, which require proper legal regulation. At the same time there are significant changes in a space complex of legal relations connected with the exploration and use of outer space and celestial bodies. In this context, great importance is the search for new directions and possible improvement of existing methods of solving actual space-legal issues to ensure the progressive development of international and national space law. One of the most complex and controversial issues of legal theory and practice of international space law is a legal issue of delimitation of air and space [1]. The term «delimitation» comes from the Latin word *delimitate*, which means separation, identification of boundaries. On the doctrinal level under the delimitation of air space and understand the contract defining the boundaries between air and outer space. A systematic analysis of the basic international instruments in the field of space activities confirms the absence of legislative differentiation of Air and Space. The relevance of this study comes from the need to improve theoretical concepts and norms of modern international space law on legal support and delimitation of air and space. This need is caused first of all by potential threats to national security and a high probability of disputes between subjects in space legal relations, particularly about the creation and use of multiple air and spacecraft that can operate in air and space.

During the accomplishment of legal activity subjects of space activity may face a legal problem concerning the application of air or space law while the respective aircraft is in the air or space. This study is a brief analysis of the

scientific and theoretical approaches with the aim of solving legal problems of air and delimitation of air and space and expression of the author's vision of possible ways of their solution for improvement of efficiency of international and national space law [2]. Retrospective analysis shows that the issue of separation of air and space is an actual problem of international space law since 1959 – year of the creation of the Committee on the Peaceful Uses of Outer Space for peaceful purposes, which was instructed to study the nature of legal problems which may arise in the study of outer space. But first it was necessary to resolve international legal problem related to the legal definition, in particular, the concept of «space», «use of outer space and celestial bodies». On the proposal of France such important issue in 1966 was introduced on the agenda of the Legal Subcommittee of the Committee on Space [3]. From that time until now space delimitation issue is one of the key legal issues to be discussed at the annual meetings of the subcommittee. A review of scientific and specialized literature on the subject and relevant materials from meetings of the Legal Subcommittee of the Committee on Space showed that among professional jurists and practitioners of international and national space law there is no consensus to resolve delimitation and legal issues. In the doctrine of international space law there two main scientific approaches to international legal issues of delimitation of air and space: functional and territorial.

The legal regime of airspace is based on the recognition of the full and exclusive sovereignty of each state over the airspace located above its territory. In other words, the national air space within the scope of full and exclusive sovereignty of a particular state, is an integral part of the State, under its exclusive jurisdiction. The state determines the legal regime of national airspace according to the norms and principles of international air law.

It is also important to consider that international space law depending on the (territory) damaged by a space object provides the peculiarities of international legal responsibility. Rule stipulated in Articles II and III of the Convention on International Liability for Damage Caused by Space Objects says that the launching State shall be absolutely liable to pay compensation for damage caused by its space object on the surface of the Earth or to aircraft in flight. If at any place other than the Earth, the space object of one launching State or to persons or property on board such a space object damaged space object of another launching State, the latter shall be liable only if the damage caused its fault or the fault of persons for whom it is responsible.

We also need to consider that the modern theory and practice operate using different approaches and calculations in solving problems of delimitation. According to the classification of the US Air Force, spaceflight is a flight height of which is more than 50 miles (80 km 467 m). The specialists of NASA define the limit of space at an altitude of 122 km. In air law doctrine expressed about the emergence of legal custom, according to which the boundary between air

and outer space is determined at a height of 80 to 140 km, the minimum perigee of orbits of artificial space objects.

In summary, we should note the existence of theoretical and practical requirements of definition of notional boundary between air and outer space. Currently, regulation done by traditions and customs that concern space-delimitation does not have a universal character. It seems that the problem of delimitation of air and space should be accepted by international legal norms on the basis of contractual consensus of states. It is important to do this by relying on generally defined principles and norms of international air and space law and national legislation of the sovereignty, territorial integrity and national security of the state. Securing the international legal norms concerning the delimitation of air and space will contribute, in particular, to the progressive development of international space law.

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МОНОПОЛЬНЕ СТАНОВИЩЕ АВІАЦІЙНИХ ПІДПРИЄМСТВ НА АВІАЦІЙНОМУ РИНКУ УКРАЇНИ

Сьогодні в Україні у зв'язку зі складною політичною та економічною ситуацією посилюються процеси монополізації в авіаційній транспортній галузі. Ці процеси негативно впливають, як на розвиток регіональних транспортних вузлів, так й транспортної системи в цілому, а також на