

Responsibility of States in Air Traffic Management: Need for International Unification

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Abstract : Since aviation industry is one of the fastest growing sectors of the world economy, states depend on the air transport industry to maintain or stimulate economic growth. It significantly promotes and contributes to the economic well-being of every nation as well as world in general. Because of the continuous and rapid growth in civil aviation, it is inevitably leading to congested skies, flight delays and most alarmingly, a decrease in the safety of air navigation facilities. Safety is one of the most important concerns of aviation industry that has been unanimously recognised across the whole world. The available capacity of the air navigation system is not sufficient for the demand that is being generated. It has been indicated by forecast that the current growth in air traffic has the potential of causing delays in 20% of flights by 2020 unless changes are brought in the current system. Therefore, a safe, orderly and expeditious air navigation system is needed at the national and global levels, which, requires the implementation of an air traffic management (hereinafter referred as 'ATM') system to ensure an optimum flow of air traffic by utilising and enhancing capabilities provided by technical advances. The objective of this paper is to analyse the applicability of national regulations in case of liability arising out of air traffic management services and whether the current legal regime is sufficient to cover multilateral agreements including the Single European Sky regulations. In doing so, the paper will examine the international framework mainly the Article 28 of the Chicago Convention and its relevant annexes to determine the responsibility of states for providing air navigation services. Then, the paper will discuss the difference between the concept of responsibility and liability under the air law regime and how states might claim sovereign immunity for the functions of air traffic management. Thereafter, the paper will focus on the cross border agreements including the bilateral and multilateral agreements. In the end, the paper will address the scheme of Single European Sky and the need for an international convention dealing with the liability of air navigation service providers. The paper will conclude with some suggestions for unification of the laws at an international level dealing with liability of air navigation service providers and the requirement of enhanced co-operation among states in order to keep pace with technological advances.

Keywords : air traffic management, safety, single European sky, co-operation

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