

ANALYSIS OF THE LEGAL REGULATION OF THE REPUBLIC OF SERBIA ON CIVIL AVIATION AND ITS COMPLIANCE WITH INTERNATIONAL REGULATIONS

Abstract: *Civil aviation is one of the fastest-growing industries and is dependent on rapid technological progress. Rapid technological progress requires a high level of legal regulation and fast adaptation of legal regulations in order to maintain safety and the smooth operation of international air traffic. Aviation law is characterized by a complex set of national legislative frameworks adopted by states, and national legislative frameworks shall be harmonized with each other through the adoption of international legal documents. In Serbia, the national legal framework relating to civil aviation is largely harmonized with the international one, which is important for its European integration. This paper aims to analyze the existing legal regulation relating to aviation legislation in the Republic of Serbia and analyze the degree of harmonization with international regulations. Also, this paper provides recommendations for future development of the civil aviation Law in Serbia.*

Keywords: *aviation law, Serbian aviation law, international law, harmonization*

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INTRODUCTION

The specific nature of the aviation industry and its international character allow this industry to be viewed primarily through the prism of international law, and then through national legislation. Unlike many other industries, aviation cannot function effectively only within the limits of a state's legal framework. The international dimension of the aviation industry requires the existence of strict rules and standards that go beyond the borders of a single state. For the smooth functioning of global air traffic, the existence of generally accepted international legal rules and international organizations¹, as well as the existence of national regulations, harmonized with international ones, is of essential importance. At the same time, national legislation has a central role when carefully aligned with international standards. This balance allows countries to maintain sovereignty over their airspace while ensuring that their aviation sector represents an integral part of the global system. For Serbia, the alignment of the national legislative with the international one has particular importance. Positioned at the Central part of the Balkan Peninsula, the country is directly on a crossroad of international and regional air routes. As part of its path toward integration into the EU, Serbia has adopted reforms for the harmonization of its aviation legislation with international and EU standards. These reforms also enhance the competitiveness of the domestic aviation sector and establish Serbia's credibility as an equal partner in international aviation. This paper analyses the most significant laws and bylaws of the Republic of Serbia and their degree of compliance with international regulations. Furthermore, potential legal shortcomings and proposals for addressing them are examined.

1. LEGAL REGULATION OF CIVIL AVIATION IN SERBIA

Historically, the Kingdom of Serbia was among the first European countries to establish a legal framework for civil aviation. In 1913, the Kingdom of Serbia adopted the Regulation on Air Traffic. With this regulation, the Republic of Serbia laid the groundwork for civil aviation regulation. For this research, this paper will only analyse the current laws in force in Serbia. The *Air Traffic Law* of the Republic of Serbia² is the main law governing civil aviation in the country. It establishes the basic principles of aviation law. In its introductory part, the law defines key terms

¹ Danilović, N. (2019): "Međunarodne organizacije i njihova uloga subjekata međunarodnog prava", *Megatrend Revija*, 16(2), p. 95-114.

² "The Air Traffic Law of the Republic of Serbia", *Official Gazette of the Republic of Serbia*, No. 73/2010 with amendments and supplements.

with a focus on the concept of airspace and sovereignty.³ This Law shall apply to aircraft while they are on the territory of the Republic of Serbia, except when otherwise provided for by a ratified international agreement.⁴ According to Article 2 of the Law, the rules of the law shall apply to civil aircraft registered in Serbia, while located on the foreign territory, only if it is not contrary to the regulations of the state on whose territory the aircraft is located or to a ratified international agreement. The entry of a foreign aircraft into Serbian airspace without following instructions from air traffic control or contrary to conditions set in the approval of the competent authority or flight plan is considered a violation of Serbian airspace. Also, foreign unmanned aircraft cannot be present in the airspace of the Republic of Serbia without the approval of the Directorate. If the unmanned aircraft is present in the airspace of Serbia without proper permission, that could be considered a violation of the airspace. Additionally, the law covers rules for aircraft registration and mandates the creation of a national register for all registered aircraft. A large part of the law addresses airport and heliport operation, the services provided there, and aims to establish uniform standards for airports in Serbia. It also sets safety standards to protect passengers, cargo, and baggage. The law's next section aligns with international regulations on air traffic safety, outlining measures for cooperation among security agencies in preventing illegal acts, including passenger and baggage control. An important part of the law is the establishment of the State Directorate for Civil Aviation, which supervises operators' activities. The Civil Aviation Directorate of the Republic of Serbia is established as a public agency, founded by the Government of the Republic of Serbia. The Directorate performs state administration tasks entrusted to it by the Law on Air Transport of the Republic of Serbia. Provisions of the Law authorize the directorate to issue permits, conduct inspections, and impose sanctions on legal and natural persons who violate the law.

Another important law, which regulates civil aviation in Serbia, is the *Law on Obligations and Basic Ownership Relations in Air Traffic*.⁵ This law was adopted in 2011 and aims to regulate the obligations and legal relations between entities in air traffic. Part of the law also deals with ownership relations, i.e., it regulates the establishment of ownership over aircraft. The provisions of the law regulate the registration of ownership rights and rights of liens in the appropriate regis-

³ Elenkov, M. P., Beriša, H. A., & Barišić, I. I. (2019): "Challenges of the implementation of the concept of flexible use of airspace in the Republic of Serbia", *Military Technical Courier*, 67(2), 374–402.

⁴ "The Air Traffic Law of the Republic of Serbia", *Official Gazette of the Republic of Serbia*, No. 73/2010 with amendments and supplements.

⁵ "Law on Obligations and Basic Ownership Relations in Air Traffic", *Official Gazette of the Republic of Serbia*, No. 87/2011, 66/2015

ters, as well as the possibility of seizing aircraft to settle claims. A large part of the provisions refer to contracts for the transportation of passengers, luggage, and belongings, aircraft leasing, and concluding contracts for air traffic insurance.⁶ An important contract provided for in the Law on Obligations and Basic Ownership Relations in Air Traffic is the Air Carriage Contract. This contract is later divided into a contract for air transport of goods and a contract for air transport of passengers and luggage. With this contract, the carrier undertakes to transport a passenger or item from the point of departure to the destination at the agreed time, and the customer/passenger to pay the agreed or appropriate fare.⁷ The key participants are distinguished: the customer (concludes a contract with the carrier), the sender (presents the item for transport), the recipient (authorized person to collect the item at the destination), the carrier (has the right to the fare), and the right holder (can assert claims against the carrier). According to the Law⁸, transportation is divided into international and domestic. International transportation requires a special international regime, and stronger state control and special customs regulations apply.

The Law on Investigation of Accidents in air, rail, and water transport was adopted in 2018. It aims to investigate serious accidents in air, rail, and water transport⁹:

- (1) which occurred on the territory of the Republic of Serbia, and are carried out in accordance with the international obligations of the Republic of Serbia,
- (2) that happened to aircraft registered in the Republic of Serbia or managed by a company based in the Republic of Serbia, and that happened outside the territory of the Republic of Serbia, if such an investigation is not conducted by another country,
- (3) regarding which the Republic of Serbia is authorized or, in accordance with international rights and obligations, is able to appoint an authorized representative in order to participate as a country of registration, a country of use, a country of design, a country of production or a country that provides information, facilities or experts at the request of the country conducting the investigation,
- (4) in the case when the Republic of Serbia is enabled to appoint a representative in an investigation led by another state on the basis of a special interest due to deaths and serious physical injuries to its citizens,

⁶ Baltezarević, V. (2017): *Primena pravnih propisa u oblasti civilnog vazduhoplovstva*, Beograd, Univerzitet "John Nesbitt", p.54.

⁷ Ibid.

⁸ "Law on Obligations and Basic Ownership Relations in Air Traffic", *Official Gazette of the Republic of Serbia*, No. 87/2011, 66/2015.

⁹ "Law on Accident Investigations for Aviation, Railways and Waterborne Transport", *Official Gazette of the Republic of Serbia*, No. 66/2015, 83/2018.

- (5) on questions concerning the timely provision of information on all persons and dangerous cargo in an aircraft that has suffered an accident or serious accident, as well as assistance to victims of an aviation accident or serious accident and their relatives;

The main purpose of this law is to conduct an investigation procedure in the event of serious aircraft accidents, in order to ensure the safety of air traffic. The provisions of the Law provide for the establishment of the Accident Investigation Center and determine its competencies. The Law advocates for transparency in the work of the Center by introducing the obligation that all conclusions from the investigations be available to the public. The investigation and the results of the investigation by the Center do not represent a basis for initiating criminal proceedings, but serve as guidelines for preventing the recurrence of such an incident.

In addition to the above-mentioned laws, which are considered the basis of the legal regulation of civil aviation in Serbia, there are also numerous bylaws that regulate the legal matter in more depth.

2. ANALYSIS OF THE DEGREE OF COMPLIANCE OF SERBIAN LEGAL REGULATIONS WITH INTERNATIONAL REGULATIONS

The legislative framework of the Republic of Serbia shows a high degree of compliance with international rules. The Air Traffic Law has incorporated the basic rules of aviation law established by the Chicago Convention, in particular the provisions relating to the regulation of the principle of sovereignty and the protection of air traffic safety. In addition to the rules of the Chicago Convention, the provisions of the Air Traffic Law are in accordance with the standards established by the International Civil Aviation Organization (ICAO). The Law on Obligations and Basic Property Ownership in Air Transport shows compliance of the provisions with the provisions of the Geneva Convention, which relate to the right of ownership and lien rights over aircraft. This law, especially the part relating to insurance and compensation of operators, is aligned with the provisions of the Montreal Convention.¹⁰ The Law on the Investigation of Accidents and Serious Incidents in Air, Rail, and Water Transport has incorporated the best practices and standards recommended by the international organization ICAO regarding the investigation of incidents and aircraft accidents. By establishing the Accident Investigation Center, Serbia demonstrates that air traffic safety is a fundamental

¹⁰ Petrović, G. (2023): "Chapter Serbia", *The Aviation Law Review, Law Business Research*, p. 280–300.

principle and that it fully complies with the regulations established by the international community. In addition to compliance with international regulations, Serbia, as a member of the European Common Aviation Area (ECAA), is obliged to harmonize its own legislation with the European one. The general conclusion is that Serbia demonstrates a high level of compliance of its national legislation with international frameworks. At the same time, Serbia, with the provisions of its national legislation, treats domestic and foreign operators equally in terms of their responsibility in protecting passengers and in the safe conduct of air traffic. Despite the high level of compliance, there are still certain aspects where Serbia should improve. The rapid change in aviation regulation, which is a result of rapid technological progress, requires greater promptness in the implementation of new rules in national legislation. In this sense, cyber threats, the emergence of drones, cyber terrorism, and the promotion of environmental protection are only partially covered in national legislation in Serbia. It is recommended to work on improving this aspect through the adoption of modern legal solutions¹¹, which will position Serbia not only as a passive recipient of norms but as an active member of the international community participating in the establishment of new international legal rules.

3. RECOMMENDATIONS FOR FURTHER DEVELOPMENT OF AVIATION LAW IN SERBIA

The development of aviation law in the Republic of Serbia should be observed from an international legal perspective, as well as from a European Union and regional perspective. The basic and most important recommendation is the harmonization of domestic legislation with the standards and regulations set by the International Civil Aviation Organization. Given that the Republic of Serbia is on the European path, harmonization with the rules of the European Union and the regulations set by the European Aviation Safety Agency is of utmost importance.

Additionally, the Republic of Serbia needs to strengthen the legal framework related to digitalization, technological progress, and cyber threats. The issue regarding cyber threats is regularly discussed internationally, but it seems that cybercriminals are always one step ahead by finding different and creative ways to exceed security measures in order to carry out their criminal activities.¹² Although

¹¹ Ukwandu, E., Ben-Farah, M. A., Hindy, H., Bures, M., Atkinson, R., Tachtatzis, C., Andonovic, I., & Bellekens, X. (2021): "Cybersecurity challenges in the aviation industry: A review of current and future trends", *Information*, 13(3), Article 146

¹² Baltezarević, I., & Baltezarević, R. (2021): "Sajber bezbednost: izgradnja digitalnog poverenja", *Megatrend revija*, 18(4), p. 269–280.

the risks associated with cyber threats in aviation cannot be eliminated, they can be mitigated by implementing good cybersecurity legislation and good practices.¹³ Furthermore, it is necessary to incorporate legal rules related to the regulation of the use of drones and the protection of passengers' personal data.

Another important aspect is the adoption of strict legal rules regarding the sustainability of aviation and its environmental aspects of aviation. Following the European and global trends, the national legislation should provide a comprehensive legislative framework related to reducing CO2 emissions, fuel consumption, and the types of fuel used. In the following period, it is expected that the states and the airlines will introduce innovative technologies and modern business models to meet environmental protection requirements, which can be taken as an example of the path that should be followed in the future.

Finally, it is necessary to strengthen regional cooperation among the Western Balkan countries in order to exchange best practices and resources. By working together, countries can improve the regulatory framework and work together to reduce harmful gases and achieve competitive and sustainable aviation.

CONCLUSION

The legal regulation in the Republic of Serbia relating to civil aviation shows that Serbia is oriented towards harmonization with international law. Analysis of the basic laws- the Law on Aviation, the Law on Obligations and Basic Ownership Relations in Aviation, and the Law on Investigation of Accidents and Serious Incidents, shows that Serbia has created a comprehensive legal framework, which undoubtedly ensures stable and efficient functioning of the aviation sector. Compliance with international regulations is evident in the legal texts of the Laws. The Republic of Serbia has harmonized its national legislation through the application of the basic principles of the Chicago Convention, the Montreal Convention, the Geneva Convention, as well as the application of the standards of the International Civil Aviation Organization. In order to strengthen its position as a reliable partner of the international community, it is recommended to regularly update the norms in the national legislation and invest in adopting new modern solutions in aviation aspects that are not sufficiently addressed by international law.

¹³ Kožović, D.V., Đurđević, D.Ž. (2019): "Sajber bezbednost u avijaciji", *Megatrend revija*, 16(2), p. 39-56.

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ANALIZA PRAVNE REGULATIVE REPUBLIKE SRBIJE U OBLASTI CIVILNOG VAZDUHOPLOVSTVA I NJENE USKLAĐENOSTI SA MEĐUNARODNIM PROPISIMA

Sažetak: *Civilno vazduhoplovstvo predstavlja jednu od najbrže rastućih privrednih grana, čiji se razvoj u velikoj meri oslanja na dinamičan tehnološki napredak. Upravo takav napredak nameće potrebu za visokim nivoom pravne regulative i za brzom adaptacijom postojećih pravnih normi, kako bi se obezbedila bezbednost i nesmetano funkcionisanje međunarodnog vazdušnog saobraćaja. Vazduhoplovno pravo odlikuje složen skup nacionalnih zakonodavnih okvira koje države usvajaju, a koji se moraju međusobno usklađivati putem prihvatanja međunarodnih pravnih akata. U Republici Srbiji nacionalni pravni okvir u oblasti civilnog vazduhoplovstva u značajnoj meri je usklađen sa međunarodnim, što je od posebnog značaja u procesu evropskih integracija. Cilj ovog rada jeste analiza postojeće pravne regulative koja se odnosi na vazduhoplovno zakonodavstvo u Republici Srbiji, kao i ocena stepena njene harmonizacije sa međunarodnim propisima. Ovaj rad nudi i preporuke za budući razvoj pravnog okvira u oblasti civilnog vazduhoplovstva u Republici Srbiji.*

Ključne reči: *vazduhoplovno pravo, vazduhoplovno pravo u Srbiji, međunarodno pravo, harmonizacija*