

THE EXERCISE OF THE STATE'S RIGHTS AND DUTIES IN THE AIRSPACE IN THE LIGHT OF PUBLIC INTERNATIONAL LAW

The space above the Earth was the lawyer's examination subject matter already in ancient times. The air which we breathe, as well as the water from the sea, was considered to be a thing common to all (*res communis omnium*). However, as far as the movement and life in the air were concerned (here we can use the term „airspace“), a different rule was used. This rule said "he who owns the land, owns it up to heaven" (*cuius es solum, eius est usque ad coelum*). This conception of the airspace still had not much in common with today's conception based on its practical use. It is obvious that society then could not have assumed reasonably (because of the level of its technical development) that mankind was going to be able to use the airspace.

The origins of proper use of the airspace we can only date to when the Montgolfier brothers constructed and launched the first hot air balloon (1783 in Paris). Initially such activities were considered to be rather curiosities but they gained respect very quickly especially when used during armed conflicts in the 19th century performing espionage and bombing tasks.

At the beginning of the 20th century the Wright brothers successfully tested the first heavier-than-air airplane. Air industry development was multiplied by the scientific and technical boom during the First World War. States having followed newly acquired experience, especially negative one, recognized officially complete and exclusive sovereign rights in the airspace above their territory. This system has been

affecting the conception of the airspace and state's status so far.

New issues connected with airspace conception arose at the beginning of the "Space Age". By that time states had not have to deal e.g. with questions of airspace and outer space boundary lines. Industrial development tore down again the boundaries of knowledge and opened the door to examining other up to that time unexamined scientific, technical and legal issues.

This thesis continues in examining the questions of exercising state's rights and duties in the airspace which result from public international law rules. Airspace is not limited here only to airspace above the state's territory but it also includes other territorial regimes. Especially rules of international air law, international maritime law (horizontal delimitation of the sea and state's rights and duties above its areas) and international outer space law (question of vertical delimitation) are of special importance for this thesis.

Within his examination the author of this thesis does not set himself the task to deal closely with the European Communities approach to the subject matter (including their legal regulation) and also the issues of environment protection and disarmament law.