

**Kateryna Vodolaskova,**

PhD of Law

ORCID ID: <https://orcid.org/0000-0002-6133-822X>

**Olena Makeieva,**

PhD of Law

ORCID ID: <https://orcid.org/0000-0001-6101-2951>

## **BASIC PRINCIPLES OF THE WARSAW SYSTEM OF INTERNATIONAL CIVIL AVIATION AND ITS INFLUENCE ON THE DEVELOPMENT OF THE NATIONAL AVIATION UNIVERSITY**

University of Cologne

Albertus Magnus Platz 100, 50923, Cologne, Germany

National Aviation University

Liubomyra Huzara Avenue, 1, 03058, Kyiv, Ukraine

E-mails: [khusanova@gmail.com](mailto:khusanova@gmail.com), [maklena72@ukr.net](mailto:maklena72@ukr.net)

*The purpose of the study is a scientific and historical analysis of the Warsaw Convention of 1929 as a legal framework which is an effective tool used by international civil aviation. **Research methods:** the methodological background of the work is a comprehensive analysis of the conceptual foundations of rules relating to international transportation by air, stipulated by the Warsaw Convention of 1929. It is based on the method of historicism, analytics and comparisons, explanation, classification, as well as systemic. **Results:** the unification of private air law for international air transport became a priority very early in the history of aviation, as the first airlines capable of carrying passengers, mail and cargo were established very soon after the First World War. The complex external elements of such a question required the unification of law at a broad international level to prevent unforeseen conflicts of law and conflicts of jurisdiction.*

*Thus, the Warsaw Convention signed on October 12, 1929, officially called the Convention on the Unification of Certain Rules Relating to International Air Transportation, has become one of the most important instruments of private international law. The Warsaw Convention is an international convention that regulates liability in the event of an accident for the international carriage of persons, baggage or cargo by aircraft for remuneration. It was the first comprehensive legal framework governing aviation internationally, playing an important role in supporting the development of the sector and establishing a set of principles, most of which are still valid and form the basis of modern aviation law. In such conditions the National Aviation University was founded and, on these principles, began to form as a powerful scientific, educational, methodical institution. **Discussion:** in addition to the historical value, as well as the possibilities of application in the educational process of this article, it is relevant for the formation of the philosophical principles of the development of the NAU. At the dawn of the founding of NAU, world civil aviation was also at the stage of formation and formation. The purpose of the 1929 Warsaw Convention was to protect the fledgling aviation industry from the devastating effects of unlimited liability for aircraft accidents. After more than 100 years, the air transportation industry has become stable and safe. In the same way, since its foundation, NAU has turned into a powerful scientific, methodical, educational institution in the aviation industry of Ukraine and the world.*

**Key words:** Warsaw System; National Aviation University; international carriage by air; international conventions of aviation law.

**Problem statement and its relevance.** This year, the National Aviation University (NAU) is celebrating the 90th anniversary of its founding since the time when by Resolution No. 1815 dated of 08/25/1933 of the Council of People's Commissars of the Ukrainian SSR, the Kyiv Aviation Institute was established, taking as a basis the aviation faculty of the Kyiv Polytechnic Institute. Since that time, the aviation institute changed its name: Kyiv Institute of the Civil Air Fleet (since 1947); Kyiv Institute of Civil Aviation Engineers (since 1965); Kyiv International University of Civil Aviation (since 1994) and NAU (since 2000).

The history of the organization of scientific divisions at NAU begins in 1948 (the first scientific circles were organized – technical, mathematical, graphic, aeromodelling, and mechanical). In the mid-1950s, the institute began to rapidly develop as an important scientific center of Aeroflot. The main scientific forces of the institute were aimed at increasing the reliability and service life of aviation equipment, controlling processes in aircraft engine elements and optimal planning of the activities of Aeroflot enterprises, creating new and improving existing aviation simulators. 1957 – creation of a research department, which included 8 branch laboratories.

During the reformation of science and higher education in Ukraine (at late 1990 s), the NAU team developed a new concept of university development. For planned and effective work, a scientific research department of the NAU was created. Scientist, corresponding members and academicians and of the Academy of Pedagogical Sciences of Ukraine and the National Academy of Sciences of Ukraine were involved in the pedagogical and scientific activities of the University.

Based on the Aviation Research Institute of NAU, a number of measures were taken to create a new multi-vector research laboratory complex. The structure of the research department, which, at various stages of development, included a number of research laboratories and research centers, was constantly changed and modified in accordance with the needs of long-term scientific research. Research institutes were also established at NAU.

That is, from the time of its foundation, NAU 'grew' from a small aviation circle, and then an in-

stitute to a powerful research, methodical, higher educational institution. Its foundation and development took place on the basis of the principles of the so-called Warsaw system of civil aviation in the world, established by the Warsaw Convention of 1929.

Having analyzed the historical and legal aspects of the Warsaw civil aviation system, it is possible to reveal the factors and conditions in which the NAU developed.

**Main material.** The Warsaw Convention of 1929 (officially – the Convention for the Unification of Certain Rules Relating to International Transportation by Air) is an international convention which regulates liability for international carriage of persons, luggage, or goods performed by aircraft for reward, which was signed in 1929 in Warsaw. During years, few amending protocols, rules, supplementary instruments, and regulations collectively with the original Convention created so called the “Warsaw System” [1].

Main objectives of the Warsaw Convention were to:

- determine the liability of the carrier in the event of loss, damage, injury or death resulting from an accident on international flights;
- spell out procedures for restitutions and claims;
- set down the requirements for content and format of air transport documents, luggage tickets, passenger tickets, and air consignment notes [2].

The Warsaw Convention itself and the treaties of the “Warsaw System” “steps” for consolidation into a renewed convention. The following treaties [3] are all amendments of the Warsaw Convention of 1929:

- the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929, Done at The Hague on 28 September 1955 (hereinafter called *the Hague Protocol*) [4];
- the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter called *the Guadalajara Convention*) [5];

- the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955 Signed at Guatemala City on 8 March 1971 (hereinafter called *the Guatemala City Protocol*) [6] Additional Protocol Nos. 1 [7], 2 [8] and 3 [9] and Montreal Protocol No. 4 [10] to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol Signed at Montreal on 25 September 1975 (hereinafter called *the Montreal Protocols*).

These agreements did not meet the needs of the modern air transport system, where airlines were operating and offering their services more independently of the government. A few unilateral initiatives, as well as measures under national and private legislation, aimed to take more into account the interests of passengers [11].

Hence, successive changes to the Warsaw Convention, combined with increased passenger mobility and the globalization of the air transport industry, have led to a high level of complexity and fragmentation of the Warsaw System and a relevant loss of relevance for travelers, the air transport industry and air carriers. From 10 till 28 May 1999 the International Conference on Air Law took place in Montréal, where new convention was signed [12] in the end of this historic three-week conference with the intention to replace the above-described Warsaw System.

Evaluating the role and significance of the new international regulatory act, we note the continuity of the form and content of the Montreal Convention with the spirit and principles of the Warsaw System, formed over 70 years of its existence.

On May 28, 1999 the Montreal Convention of 1999 (the Convention for the Unification of Certain Rules for International Carriage by Air) [13] has unified main international treaty regimes, which covered airline liability that had developed since 1929 [11].

The reasons of its adoption are formulated in the Convention, which are:

1) insufficient orderliness of the use of airspace during international air transportation in accordance

with the principles and goals of the Chicago Convention of 19441;

2) disunity and imperfection of legal documents of the Warsaw legal system, represented by the Warsaw Convention of 1929 and other related legal acts (the Hague Protocol of 1955, the Guadalajara Convention of 1961);

3) insufficient orderliness of the legal framework of international private air law;

4) weak protection of consumer interests during international air transportation [14].

Hence, it is stipulated in the preamble to the Montreal Convention that the states parties concluded the Convention recognizing:

- the significant contribution of the "Warsaw Convention" and other related documents to the harmonization of international private air law; the necessity to modernize and consolidate the Warsaw Convention and relevant documents;

- the importance of ensuring the protection of consumers' interests in international air transportation and the need for fair compensation based on the principle of restitution;

- now, the injured party no longer has to provide evidence of the fault of the air carrier in cases where the damage exceeds the maximum amount of liability, which would often be an almost impossible undertaking [15].

**Conclusions.** The Warsaw Convention is a legal framework that is an effective tool used by international civil aviation. The Warsaw System is the result of changes and additional protocols, rules and regulations in the Warsaw Convention.

The Convention contains definitions of terms, documents or carriage, baggage and passenger ticket, liability of the carrier, provisions of mixed transport and other general provisions, which are summarized in five sections. In addition to the general issues of international flights covered by the Warsaw Convention, there are also specific provisions of the convention that are specific, such as passenger and baggage tickets.

The Convention clearly explains international carriage and its application. It also establishes mandatory rules for transporting documents. As a legal basis, the Warsaw Convention also defines the responsibility and limitations of the carrier. The Con-

vention provides for a two-year statute of limitations for filing claims.

On the one hand, the Warsaw Convention is a treaty that allows an international airline to limit its liability for the death or injury of a passenger. That is, the essence of the Warsaw Convention of 1929 was to protect the young aviation industry from the devastating consequences of unlimited liability for plane crashes. Air travel is the safest mode of transportation available today. The existence of a stable and safe air transport industry indicates that the primary purpose of the contract has been achieved and that further application of the limitation of liability has become unwarranted. Therefore, the world community adopted the Montreal Convention in 1999, which unified all the various international contractual regimes covering airline liability which had evolved haphazardly since 1929.

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Катерина Водоласкова, Олена Макеєва

## ОСНОВНІ ПРИНЦИПИ ВАРШАВСЬКОЇ СИСТЕМИ МІЖНАРОДНОЇ ЦИВІЛЬНОЇ АВІАЦІЇ ТА ЇЇ ВПЛИВ НА РОЗВИТОК НАЦІОНАЛЬНОГО АВІАЦІЙНОГО УНІВЕРСИТЕТУ

Кельнський університет  
Albertus Magnus Platz 100, 50923, Кельн, Німеччина  
Національний авіаційний університет  
проспект Любомира Гузара, 1, 03058, Київ, Україна  
E-mails: khusanova@gmail.com, maklena72@ukr.net

**Метою** дослідження є науково-історичний аналіз Варшавської конвенції 1929 р. як нормативно-правової бази, що є ефективним інструментом міжнародної цивільної авіації. **Методологічною основою** роботи є комплексний аналіз концептуальних засад Правил міжнародних повітряних перевезень, передбачених Варшавською конвенцією 1929 р. Вона базується на методі історизму, аналітики та порівняння, пояснення, класифікації, а також як системні. **Результати:** уніфікація приватного повітряного права для міжнародних повітряних перевезень стала пріоритетом дуже рано в історії авіації, оскільки перші авіакомпанії, здатні перевозити пасажирів, пошту та вантажі, були створені дуже скоро після Першої світової війни. Складні зовнішні елементи такого питання вимагали уніфікації права на широкому міжнародному рівні, щоб запобігти непередбаченим колізіям права та конфліктам юрисдикції. Таким чином, підписана 12 жовтня 1929 р. Варшавська конвенція, офіційно названа Конвенцією про уніфікацію деяких правил, що стосуються міжнародних повітряних перевезень, стала одним із найважливіших документів міжнародного приватного права. Варшавська конвенція – це міжнародна конвенція, яка регулює відповідальність у разі аварії за міжнародне перевезення осіб, багажу або вантажу повітряним судном за винагороду. Це була перша всеохоплююча законодавча база, що регулює авіацію на міжнародному рівні, відіграючи важливу роль у підтримці розвитку сектору та встановлюючи набір принципів, більшість із яких досі чинні та складають основу сучасного авіаційного права. У таких умовах був заснований і на цих засадах почав формуватися Національний авіаційний університет як потужний науковий, навчальний, методичний заклад. **Обговорення:** крім історичної цінності, а також можливостей застосування у навчальному процесі даної статті, вона має актуальність для формування філософських принципів розвитку НАУ. На зорі заснування НАУ світова цивільна авіація також перебувала на стадії становлення та формування. Суть Варшавської конвенції 1929 р. полягала в тому, щоб захистити молоду авіаційну галузь від руйнівних наслідків необмеженої відповідальності за авіакатастрофи. Після більше 100 років галузь авіаперевезень перетворилася на стабільну та безпечну. Так само НАУ з часу свого заснування перетворився на потужну наукову, методичну, навчальну установу авіаційної галузі України та світу.

**Ключові слова:** Варшавська система; Національний авіаційний університет; міжнародні повітряні перевезення; міжнародні конвенції авіаційного права.

Стаття надійшла до редакції 28.09.2023