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Reparation of Civil Aerial Accidents Under International Air Law: A Case Study of the 2020 Ukrainian Plane Incident in Iran

Uluslararası Hava Hukuku Çerçevesinde Sivil Hava Kazalarının Onarımı:
İran'da 2020 Ukrayna Uçağı Kazası Üzerine Bir Vaka Çalışması

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ABSTRACT

International Air Law, encompassing both national and international legal norms, plays a critical role in defining state sovereignty in airspace and ensuring the safety of passenger aircraft. This paper highlighted the evolution of airspace law, emphasizing key treaties and conventions such as the Chicago and Montreal Conventions, which have shaped the legal landscape of modern aviation. In

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addition, precedents from domestic and international court decisions and directives of pertinent organizations were analyzed here. It thoroughly examined the role of Aviation Law in addressing contemporary challenges, with a focus on the downing of Ukraine International Airlines Flight PS752 in Iran on January 8, 2020. This incident, a non-warfare act of force, presented a complex legal challenge and led to recent legal controversies. Key discussions included the implications of human error in aviation incidents, particularly in terms of criminal liability and financial compensation. The paper made efforts to evaluate such situations within the framework of international air law, advocating for continuous legal adaptation to safeguard global civil aviation. This study particularly suggests the possible reparations for aerial accidents, specifically those caused by human error.

Keywords: Air Law, Aircraft Incidents, Criminal Liability, Compensation, *Ex gratia* Payment.

ÖZET

Uluslararası Hava Hukuku, hem ulusal hem de uluslararası hukuki normları kapsayarak, devlet egemenliğinin hava sahasında tanımlanmasında ve yolcu uçaklarının güvenliğinin sağlanmasında kritik bir rol oynar. Bu makale, hava sahası hukukunun evrimini vurgulayarak, modern havacılığın hukuki çerçevesini şekillendiren Chicago ve Montreal Sözleşmeleri gibi önemli antlaşma ve sözleşmelere odaklanmıştır. Ayrıca, ulusal ve uluslararası mahkeme kararlarından içtihatlar ve ilgili kuruluşların direktifleri de burada analiz edilmiştir. Makale, özellikle 8 Ocak 2020 tarihinde İran'da meydana gelen Ukrayna Uluslararası Havayolları'na ait PS752 sefer sayılı uçuşun düşürülmesi üzerine, Hava Hukuku'nun güncel zorluklarla başa çıkma rolünü kapsamlı bir şekilde incelemiştir. Bu olay, savaş dışı bir güç kullanımı olarak, karmaşık bir hukuki zorluk teşkil etmiş ve son zamanlarda hukuki tartışmalara yol açmıştır. Tartışmalar, özellikle cezai sorumluluk ve mali tazminat açısından, havacılık kazalarında insan hatasının sonuçları üzerine yoğunlaşmıştır. Makale, uluslararası hava hukuku çerçevesinde bu tür durumları değerlendirme çabalarını sürdürmekte ve küresel sivil havacılığı korumak adına sürekli hukuki uyuma yönelik savunmalar yapmaktadır. Bu çalışma, özellikle insan hatasından kaynaklanan hava kazaları için olası tazminatlar önermektedir.

Anahtar Kelimeler: Hava Hukuku, Uçak Kazaları, Ceza Sorumluluğu, Tazminat, *Ex Gratia* Ödeme.

INTRODUCTION

The domain of aerial law encompasses an extensive array of legal principles meticulously designed to regulate the complexities of air navigation. This specialized branch, referred to as International Air Law, delves into the legal intricacies associated with airspace, the operation and regulation of aircraft (encompassing their roles in transportation and

military activities), the responsibilities and rights of air personnel, and the management and oversight of airfields. It involves both national and international legal regulations¹. Additionally, this domain extends to encompass the regulation of airspace utilization and communication technologies such as wireless telegraphy, radio, and television, which transmit sound and electromagnetic waves through the air². It even includes aspects of meteorological regulations. This foundational understanding of international air law is essential before analyzing the passenger aircraft downing incident in Iran. The analysis will draw upon these legal principles and reference key decisions to provide a comprehensive evaluation of the incident. This paper adopts a qualitative research methodology to critically analyze international air law's response to passenger aircraft safety and airspace security, focusing on the 2020 Ukrainian plane incident in Iran. By reviewing legal norms, treaties, conventions, and case law, it aims to highlight the complexities of protecting civilian aircraft globally. The paper is structured to first outline the evolution of international civil aviation and airspace law, followed by a detailed examination of the Flight PS752 downing. It then assesses the legal implications and state responsibilities, drawing parallels with similar past incidents.

I. EVOLUTION OF INTERNATIONAL CIVIL AVIATION AND AIRSPACE LAW

The evolution of international airspace law since the early 20th century reflects shifts in the perception and utilization of airspace. Initially considered sovereign and free, especially before World War I due to the absence of aerial warfare, airspace was largely unregulated. This changed between World Wars I and II, as the strategic importance of airspace in warfare necessitated its recognition as a sovereign entity. Post-World War II, airspace gained additional importance for trade, passenger transport, and other civilian uses, leading to the development of a complex legal framework. This framework comprises customary international law, multilateral treaties, and conventions, alongside International Civil

1 Welf **Heinrich**, *Air Law and Space*, Saint Louis University Law Journal, (5), Madrid 1958, p. 11.

2 Andrew **E Haley**, *Space Law-Basic Concepts*, Tennessee Law Review (24), Knoxville 1955, p. 643.

Aviation Organization (ICAO)³ standards and practices. It also includes bilateral agreements on traffic rights and security, interstate regulations (e.g., EU's flight delay and emission trading regulations), national legislation, and administrative procedures (e.g., air carrier alliances, airport agreements). Judicial decisions, both international and local, further shape and interpret airspace law. This intricate legal tapestry reflects the evolving nature of airspace as a multifaceted asset, integral to national sovereignty, security, and global connectivity⁴.

Fundamental documents of international air law, pivotal in shaping the efficient use of airspace in the era of globalization, include several key treaties. The Paris Air Navigation Convention, 1919⁵, the first international treaty to address the political complexities of international air navigation, recognized each country's absolute sovereignty over its territorial airspace and waters. It emphasized that nations should apply their regulations equally to foreign aircraft within their airspace and ensured equal treatment for the aircraft of contracting states, based on their registration nationality⁶.

Additionally, the Warsaw Convention, 1929⁷, made significant contributions to regulating international air transportation. The Chicago Convention on Civil Aviation, 1944⁸, a cornerstone in international civil aviation, established rules regarding airspace, aircraft registration, and safety. The Tokyo Convention, 1963⁹, outlined criminal liabilities and

3 Assad **Kotaite**, "ICAO and the Development of Air Transport", *Aircraft Engineering and Aerospace Technology*, 52, (2), 1980, pp. 17-20.

4 Martinez **Romera**/Beatriz **Harro van Asselt**, "The International Regulation of Aviation Emissions: Putting Differential Treatment into Practice", *Journal of Environmental Law*, 27, (2), 2015, pp. 259-283.

5 Paris Convention, 1919 "Convention relating to the regulation of aerial navigation", Paris, adopted 13 October 1919, entered into force 1 January 1920) 11 LNTS 173, p. 476.

6 Horace Bowman **Jacobini**, "Observations on International Aviation Law", *Social Science*, 23, (1), 1948, pp. 51-53.

7 Warsaw Convention, 1929, "Convention for the Unification of Certain Rules Relating to International Carriage by Air," Warsaw, adopted 12 October 1929, entered into force 13 February 1933, 137 LNTS 11, p. 472.

8 Chicago Convention on Civil Aviation, 1944, "Convention on International Civil Aviation", Chicago, adopted 7 December 1944, entered into force 4 April 1947. 15 UNTS 295, p. 41.

9 Tokyo Convention, 1963, "Convention on Offences and Certain Other Acts Committed on Board Aircraft", Tokyo, adopted 14 September 1963, entered into force 4 December 1969, 704 UNTS 219, p. 8.

related rules for offenses committed on board civil aircraft. Similarly, the Montreal Convention, 1971¹⁰, focused on preventing unlawful acts against civil aviation's safety. Other important treaties include the Hague Protocol, 1955¹¹ to the Warsaw Convention, the Montreal Agreement, 1966¹², the Guatemala Protocol, 1971¹³, and the Montreal Protocol, 1975¹⁴, each playing a distinct role in the international legal framework governing air travel¹⁵.

The ICAO, a specialized agency of the United Nations (UN), is instrumental in establishing and ensuring compliance with international standards and regulations across all aspects of civil aviation. Distinct from other international air transportation organizations such as “the International Air Transport Association (IATA), the Civil Air Navigation Services Organization (CANSO), Air Navigation Service Providers (ANSPs), and the Airports Council International (ACI), the ICAO’s Air Navigation Commission (ANC) plays a technical role¹⁶.” The ICAO is pivotal in enhancing the safety of international civil aviation, ensuring safe flight operations in international air navigation, and promoting the development of various facets of international civil aviation. The freedoms of the air, key to facilitating globalization and modern communication in international aviation and airspace, have gained increasing importance. Initially recognized as two or three fundamental rights, these freedoms have expanded to as many as nine in the modern era. The first two

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- 10 Montreal Convention, 1971, “Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation”, Montreal, adopted 23 September 1971, entered into force 26 January 1973, 974 UNTS 177, p. 42.
 - 11 Hague Protocol, 1955, “Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air”, The Hague, adopted 28 September 1955, entered into force 1 August 1963, 478 UNTS 371, p. 17.
 - 12 Montreal Agreement, 1966, “Agreement Relating to Liability Limitations of Air Carriers”, Montreal, adopted 13 May 1966, 574 UNTS 159.
 - 13 Guatemala City Protocol, 1971, “Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft” Guatemala City, adopted 20 February 1971, 974 UNTS 255, p. 11.
 - 14 Montreal Protocol, 1975, “Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation”, Montreal, adopted 24 February 1975, entered into force 6 August 1975, 1158, UNTS 177, p. 13.
 - 15 Lyttleton **Fox**, “The Law of Aerial Navigation”, *The North American Review*, 190, (644), 1909, p. 101-106.
 - 16 Elfita **Agustini**/Yaya **Kareng**/Ong Argo **Victoria**, “The Role of Icao (International Civil Aviation Organization) in Implementing International Flight Safety Standards”, *KnE Social Sciences*, 5, (1), 2021, p. 100–114.

freedoms concern the rights of commercial aircraft to fly over a foreign country's airspace and to stop in a foreign country for refueling or maintenance without embarking or disembarking passengers or cargo¹⁷. The subsequent freedoms encompass regulations related to the international transportation of passengers, mail, and cargo. Below is a brief overview of these nine freedoms.

The First Freedom of the Air is the right to traverse a foreign nation's airspace without making a landing. The Second Freedom entails the privilege to land in a foreign country for non-traffic purposes such as refueling or maintenance. The Third Freedom allows an airline to operate flights from its home country to a foreign nation, transporting passengers and cargo, while the Fourth Freedom permits the reciprocal operation from the foreign nation back to the airline's own country. The Fifth Freedom authorizes an airline to operate flights between two foreign countries, starting or ending in the airline's home country, with the rights to transport passengers and cargo between these nations. The Sixth Freedom involves the transportation of passengers or cargo from one foreign country to another, via the airline's home country, often referred to as carrying transfer passengers. The Seventh Freedom allows an airline to operate flights between two foreign countries without any operational link to its home country. The Eighth Freedom, also known as cabotage, permits an airline to operate domestic flights within a foreign country, starting or ending in the carrier's home country. The Ninth Freedom extends this right to allow an airline to operate commercial flights entirely within a foreign country's domestic routes.¹⁸

II. DOWNING OF UKRAINIAN PASSENGER AIRCRAFT IN IRAN

Ukraine International Airlines Flight 752, a scheduled international passenger service from Tehran to Kiev, met with a tragic end on January 8, 2020¹⁹. The Boeing 737-800 operating the route was shot down shortly after takeoff from Tehran Imam Khomeini International Airport by the

17 The freedoms of the air are commercial aviation rights established in the 1944 International Civil Aviation Convention, also known as the Chicago Convention, allowing airlines of one country to enter and land in another's airspace.

18 "ICAO, Freedoms of the Air", <https://www.icao.int/pages/freedomsair.aspx>, Accessed 09 May 2024

19 Fatemeh **Shayesteh**/Hyunjin **Seo**, "Competing Frames on Social Media: Analysis of English and Farsi Tweets on Iran Plane Crash", *The Journal of International Communication*, 28, (1), 2022, p. 47-69.

Iranian Revolutionary Guards Corps, resulting in the death of all 176 passengers and crew onboard. This incident garnered significant international attention, especially as it occurred in the aftermath of a U.S. drone attack that killed Iranian General Qasem Soleimani²⁰.

In the weeks leading up to the tragic incident of PS752, tensions between Iran and the United States were particularly escalated. In December 2019, a militia in Iraq targeted an air base housing U.S. personnel, prompting U.S. air strikes against the group. On January 3, 2020, a U.S. drone attack at Baghdad International Airport killed the militia's leader and Qassem Soleimani, the Quds Force commander. Then, on the morning of January 8, Iranian forces fired ballistic missiles at two bases in Iraq used by U.S.-led forces²¹.

Ukraine International Airlines flight 752 departed Imam Khomeini International Airport at 6:12 am, delayed by an hour due to an overloaded cargo hold. While other flights operated normally, PS752 climbed to around 8,000 feet (2,400 meters), following its planned route. Shortly before 6:15 am, the aircraft was hit by a surface-to-air missile, and roughly 30 seconds later, a second missile struck, setting the plane ablaze. Civilian videos captured the aircraft in flames, apparently trying to return to the airport. At 6:18 am, PS752 crashed near Khalaj Abad just outside Tehran. The wreckage spread over a 1,500-foot (450-meter) radius in a lightly populated area encompassing a park, orchards, and a soccer field. There were no survivors²². Initially, the Iranian government denied responsibility for the aircraft's downing but subsequently admitted to it²³.

In early discussions, the downing of the aircraft was examined from various perspectives. Following the U.S. action against General Soleimani, the incident was debated as potentially justifiable self-defense

20 Jean **Galbraith**, "U.S. Drone Strike in Iraq Kills Iranian Military Leader Qasem Soleimani", *The American Journal of International Law*, 114, (2), 2020, p. 313-23.

21 Britannica, **The Editors of Encyclopedia**, "surface-to-air missile". *Encyclopedia Britannica*, 13 Feb. 2024, <https://www.britannica.com/technology/surface-to-air-missile>. Accessed 09.05.2024.

22 Ajey **Lele**/Kritika **Roy**/Carl **Jaison**/Poonam **Mann**/Sanjana **Gogna**/Anu **Sharma**/Aditya **Mani**/Divya **Malhotra**, "Air Power", *Journal of Air Power and Space Studies*, 15, (1), 2020, p. 176.

23 Nityesh **Dadhich**, "Attack on a Civilian Aircraft by a State: Imposing Obligations for Wrongful Actions", *Amherst College Law Review*, 5, (6), 2023, p. 125.

under the law of armed conflict²⁴. However, considering the civilian status of the aircraft, it is untenable to deem this action legitimate under human rights law and international aviation law. Iran's eventual admission to mistakenly shooting down the Ukrainian plane due to "human error" further shifted perspectives. On January 11, Iran acknowledged its accidental role in the tragedy. General Amir Ali Hajizadeh, head of the Iranian Revolutionary Guards' aerospace division, and former diplomat, ambassador, and foreign minister of Iran Mr. Javad Zarif, accepted full responsibility for the armed attack and said it's a human error incident²⁵. Iranian President Hassan Rouhani expressed "profound regret" over the "tragic mistake"²⁶.

A. Assessment of the Incident

This incident involves a civilian passenger aircraft operated by Ukraine International Airlines, raising critical issues under international air law. The Chicago Convention, 1944, articulates clear provisions regarding attacks on passenger aircraft. Article 3 of the Chicago Convention states,

"The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered"²⁷.

This injunction underscores the protected status of civil aircraft. Furthermore, the Montreal Convention remains a pivotal legal framework in international law, addressing the unlawful acts against the safety of civil aviation. Under Article 1 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, commonly referred to as the Montreal Convention, it is specified that a person commits an

24 Mohammad **Khorshidi Athar**/Lesani **Seyed Hesamadin**, "A Critical View Towards U.S. Claim of Preemptive Self-Defense in the Assassination of General Qasem Soleimani", *Iranian Journal of International and Comparative Law*, 1, (1), 2023, p. 12.

25 Iranian Foreign Minister said, "Human error at time of crisis caused by US adventurism led to disaster", <https://twitter.com/jzarif/status/1215847283381755914>, Accessed 09.05.2024.

26 Iranian President Hassan Rouhani made an official statement, "Missiles fired due to human error caused the horrific crash of the Ukrainian plane", <https://twitter.com/HassanRouhani/status/1215856039997984768?s=20>, Accessed 09.05.2024.

27 International Civil Aviation Organization, "Convention on International Civil Aviation", Chicago Convention, (adopted 7 December 1944, entered into force 4 April 1947) Art 3, p. 116.

offense if they unlawfully and intentionally destroy an aircraft in service, or inflict damage upon such an aircraft rendering it incapable of flight or endangering its safety.²⁸ Furthermore, the convention stipulates that it constitutes an offense if an individual unlawfully and intentionally destroys or damages air navigation facilities, or interferes with their operation, in a manner likely to endanger the safety of aircraft in flight.²⁹ While this provision addresses unlawful and intentional acts, the convention does not provide specific remedies for acts that are unintentional yet wrongful. This constitutes a significant gap in the convention's framework.

Additionally, Article 2(4) of the UN Charter, foundational in international law, mandates:

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations³⁰.”

This prohibition of the “use of force” extends to actions against foreign civilian aircraft within a nation's borders, representing a clear breach of international law. Similar provisions and interpretations are echoed in various case rulings. Some of these are mentioned below.

B. Judicial Decisions and ICAO Council Resolutions

1. ICJ Case of the Aerial Incident, 1955 (USA v. Bulgaria)

Generally, each state possesses the sovereign right to protect its airspace. This principle is underscored by the International Court of Justice (ICJ) in the Aerial Incident case, 1955 (USA v. Bulgaria)³¹. The case established that a country has the authority to safeguard its airspace, which falls under its sovereignty. Should there be any unauthorized entry into its airspace, the state is entitled to take all necessary measures to uphold its sovereignty³². However, specific conditions apply regarding civilian aircraft. In this incident, a civilian commercial aircraft operated

28 Montreal Convention, p. 4.

29 Montreal Convention, p. 4.

30 UN Charter (adopted 26 June 1945, entered into force 24 October 1945) art 2(4), p. 74.

31 ICJ, Case Concerning the Aerial Incident of 27 July 1955 (United States of America v. Bulgaria), [1959] ICJ Rep 127, p. 9.

32 Mizanur **Rahman**, International Law in Changing World, Palal Prokashoni, 1, Dhaka 2011, p. 11-20.

by El Al Israel Airlines LTD, route from London to Paris and subsequently to Israel, unintentionally entered Bulgarian airspace on July 27, 1955³³. In response, Bulgaria dispatched a military aircraft to intercept, which led to the attack and destruction of the Israeli commercial aircraft, causing the deaths of 7 crew members and 51 passengers³⁴.

After diplomatic negotiations, Israel initiated proceedings at the ICJ on October 16, 1957, seeking reparations. Israel contended that the aircraft's entry into Bulgarian airspace was inadvertent, resulting from a mechanical failure, and emphasized the aircraft's civilian status. Bulgaria, however, contested the jurisdiction of the Court and maintained its right to take necessary actions for airspace protection. The ICJ upheld Bulgaria's position, affirming a state's right to defend its airspace. Subsequently, Bulgaria agreed to compensate the victims' families, totaling \$1,950,000³⁵.

2. The U-2 Incident, 1960 (Soviet Union vs. USA - Soviet Federal Court)

A state has the right to protect the sovereignty of its own airspace, especially against the illegal entry of a military aircraft³⁶. The principle derived from this case is: A state has the right to take all necessary steps against the illegal entry of a military aircraft into its airspace. The principle derived from this case is that a state has the right to protect its airspace sovereignty, especially in the face of an illegal incursion by a military aircraft, by taking all necessary steps³⁷.

The U-2, a highly advanced American spy plane in 1960, was piloted by the famous CIA agent, Cornel Francis G. Powers. Engaged in covert espionage for an extended period, particularly using the U-2 aircraft, Powers gathered secret intelligence from Soviet Union. Despite his long-standing discretion, on May 1, 1960, he mistakenly entered Soviet airspace. Soviet Union immediately dispatched a MiG-29, signaling for the U-2 to land. The U.S. aircraft ignored the signal and did not descend,

33 ICJ, Case Concerning the Aerial Incident of 27 July 1955 (Israel v. Bulgaria), [1959] ICJ Rep 128, p. 33.

34 Chava **Shachor-Landau**, "The Judgment of the International Court of Justice in the Aerial Incident Case between Israel and Bulgaria", *Archiv des Völkerrechts*, 8, (3) 1960, p. 277-90.

35 Aerial Incident case (US v Bulgaria) [1959] ICJ Rep 28, p. 9.

36 **Rahman**, p. 8.

37 Quincy **Wright**, "Legal Aspects of the U-2 Incident", *American Journal of International Law*, 54, (4), 1960, p. 836-54.

leading Soviet Union to forcibly down the plane. Powers parachuted to safety but were promptly captured by Soviet forces and brought to trial. The Soviet court deemed Soviet Union's actions justified and sentenced spy G. Powers to 10 years imprisonment, subsequently sending him to Siberia. Surprisingly, the U.S. did not protest this sentence³⁸.

3. Libyan Airline Incident, 1973 and the ICAO Council's Decision

Attacking civilian aircraft under any circumstances is not legal. The principle derived from the ICAO Council, 'Libyan Airline Tragedy Report' (1973)³⁹, is that attacking a civilian aircraft is never reasonable. Merely sending a signal to a plane to land cannot justify any form of attack or use of force, as the signal may not seem reasonable to the pilot⁴⁰.

In February 1973, an Israeli military aircraft attacked a Libyan passenger plane over the Sinai mountains, resulting in 106 fatalities. The investigation by the ICAO revealed that the Libyan aircraft had mistakenly entered the area⁴¹. Israel defended its actions by stating that they had signaled the aircraft to land, and when it failed to comply, they felt compelled to attack⁴². The ICAO declared this act contrary to international law, stating that it could never be justified⁴³.

4. Korean Airline Tragedy, 1983 and the ICAO Council Decision

In the aftermath of this tragic event, the ICAO adopted a resolution affirming that the use of force or weapons against civilian aircraft is unacceptable under any circumstances, except as specified under Article 51 of the United Nations Charter⁴⁴. The 1983 incident involved Korean Air Flight 747, route from Alaska to South Korea, which accidentally entered a militarily sensitive area of Soviet Union's airspace. A Soviet

38 James A **Nathan**, "A Fragile Detente: The U-2 Incident Re-Examined", *Military Affairs*, 39, (3), 1975, p. 97-104.

39 International Civil Aviation Organization Council, "Report on the Libyan Airline Tragedy, 1973" (ICAO 1973), p. 40.

40 ICAO Council, "Annual Report of the Council, 1973", p. 180, <https://www.icao.int/assembly-archive/Session21/A.21.REP.9085.EN.pdf>, Accessed 09.05.2024.

41 ICAO Council, "RESOLUTIONS AND MINUTES", 1973", p. 180. <https://www.icao.int/assembly-archive/Session19E/A.19.RESOL.1.P.EN.pdf>, Accessed 09.05.2024.

42 Eugene **Sochor**, "ICAO and Armed Attacks against Civil Aviation", *International Journal*, 44, (1), 1989, p. 134-70.

43 Council, p. 10

44 UN Charter art 51, p. 7.

Union's MiG fighter jet subsequently attacked the civilian aircraft, leading to the tragic loss of all 269 passengers and crew members. This incident sparked international demands for compensation from Soviet Union, including a notable claim of two million pounds from the United Kingdom for its nationals⁴⁵.

Initially, Soviet Union justified its actions by alleging that the aircraft had illegally entered its airspace and ignored signals to land. However, an investigation by the ICAO uncovered that the intrusion resulted from a navigational error by the Korean plane's crew. In a startling revelation, it was later discovered that Soviet Union had intentionally downed the aircraft to test a new air-to-air missile. In response to these findings, Soviet Union's Premier Gorbachev formally apologized to South Korea and agreed to pay substantial compensation⁴⁶.

C. Evaluation of Incidents Caused by Human Error

In international law, remedies for errors are limited⁴⁷. Even if, as Iran claims, the downing of an aircraft was a genuine mistake, the actions taken by Iran before and after the incident are significant^{48, 49}. Prior to the incident, the decision to keep national airspace open amid heightened military tensions was a clear deviation from international safety protocols, indicating a significant lapse in the duty of care owed to civilian aviation. This oversight reflects deficiencies in Iran's risk assessment and communication strategies, essential elements of international aviation law.

Following the incident, Iran's initial denial and subsequent admission of responsibility underscored the complexities of state accountability and transparency in international relations. This change in stance necessitated rigorous, transparent investigations and highlighted the importance of timely and accurate communication with the international community. These actions—or their absence—play a pivotal role in shaping the

45 Craig **Morgan**, "Legal Argumentation in International Crises: The Downing of Korean Air Lines Flight 007", *Harvard Law Review*, 97, (5), London 1984, p. 1198-213.

46 **Rahman**, p. 8.

47 Hafner **Burton/M Emilie/Kiyoteru Tsutsui**, "Justice Lost! The Failure of International Human Rights Law to Matter Where Needed Most", *Journal of Peace Research*, 44, (4), 2007, p. 407-25.

48 **Khorshidi Athar/Seyed Hesamadin**, p. 7.

49 **Mohammad Eslami**, "Iran's Ballistic Missile Program and Its Foreign and Security Policy Towards the United States under the Trump Administration", *Revista española de ciencia política*, (55), 2021, p. 37-62.

determination of liabilities and remedies, including compensation, reparations, and the restoration of trust in international aviation safety.

Furthermore, an analysis of comparative case studies, such as the Korean Airline Tragedy and the Libyan Airline Incident, demonstrates the diverse responses of states and international bodies to similar errors. This exploration extends to the examination of state responsibility for actions by state actors in erroneous situations, and the critical intersection of international human rights law with air law in safeguarding the rights of passengers and their families when civilian lives are lost. Finally, the necessity of establishing and adhering to stringent protocols, including military-civil aviation coordination and risk assessments during heightened tensions, is paramount to prevent future tragedies. These factors are considered when determining potential remedies.

1. Criminal Liability

In the aftermath of the tragic downing of Ukraine International Airlines Flight PS752, Brigadier General Amir Ali Hajizadeh of Iran's Revolutionary Guards Aerospace Force publicly acknowledged that the aircraft was mistakenly identified as a cruise missile⁵⁰. This admission raises profound questions regarding the frameworks of criminal liability in international aviation law, particularly under high-tension circumstances where the risk of misidentification and human error is significantly heightened. Iran's concurrent military engagement against U.S. forces further complicates the legal landscape, as the decision to maintain open airspace for civilian flights amidst such threats potentially contravenes established international safety protocols and obligations.

The principle of criminal liability in this context is intricately linked to both the doctrine of state responsibility and individual accountability under international law. The Chicago Convention, 1944⁵¹, alongside the

50 Rahmad Wahid Affandi **Harahap**, "The Criminal Liability of Air Flight Accidents." *Locus Journal of Academic Literature Review*, 1, (6) 2022, p. 349-356.

51 Chicago Convention, 1944, "Article 3bis: a. The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered." <https://www.jus.uio.no/english/services/library/treaties/07/7-01/international-civil-aviation.html#treaty-header2-1>, Accessed 09.05.2024.

Montreal Convention, 1971⁵², sets forth clear legal obligations for member states to protect civilian aircraft from acts of violence. These treaties articulate the imperatives for safeguarding passengers and crew, mandating exhaustive measures to prevent unlawful interference with civilian aviation. Iran's acknowledgment of a misidentification incident prompts a legal inquiry into the adequacy of its military and civilian protocols in distinguishing between military threats and civilian aircraft⁵³. The standards of due diligence and reasonable care, principles embedded in international law, are central to assessing criminal liability. The legal discourse must consider whether the actions taken by Iranian military personnel, under the circumstances, deviated from these internationally mandated standards, thereby constituting negligence or recklessness warranting criminal responsibility.

Furthermore, the legality of keeping national airspace open to civilian traffic during military confrontations is a subject of critical analysis. The decision by Iranian authorities in this regard implicates them in potential breaches of the duty of care owed to international civil aviation, raising questions about the implementation of risk assessment procedures and the communication of threats to civilian airliners. In light of these considerations, the potential for criminal charges and liabilities extends beyond the immediate actors to encompass systemic failures and policy decisions that contravened international aviation safety norms. A comprehensive legal examination requires scrutinizing the chain of command, decision-making processes, and the adherence to international

52 Montreal Convention, 1971, "Article 1: 1. Any person commits an offence if he unlawfully and intentionally: (a) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or (c) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to its which renders it incapable of flight, or to cause damage to its which is likely to endanger its safety in flight; or (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight; or (e) communicates information which he knows to be false, thereby endangering the safety of an aircraft in flight.", <https://www.refworld.org/legal/agreements/icao/1971/en/13723>, Accessed 09.05.2024.

53 Harahap, p. 12.

and domestic legal obligations aimed at preventing such catastrophic incidents⁵⁴.

2. Financial Compensation or Reparation

Financial compensation or reparation plays a pivotal role in the realm of international legal remedies, particularly in incidents involving the unlawful downing of civilian aircraft. Grounded in a myriad of international legal frameworks and human rights law, the entitlement of victims to comprehensive reparations is well-documented and universally recognized⁵⁵. The scope of reparation, as delineated by the United Nations Principles of Reparation, encompasses a broad spectrum of remedies including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition⁵⁶. These principles aim to address the multifaceted impact of such tragedies on victims and their families, ensuring a holistic approach to justice and healing.

In the specific case of the downing of Ukraine International Airlines Flight PS752 by Iranian forces, Iran announced that it would pay \$150,000 to each victim's family as compensation for the tragic incident. This initiative was part of Iran's broader effort to address the fallout from the downing of the aircraft, which included court sessions with the victims' families to bring those responsible to account⁵⁷. The concept of financial compensation or reparation transcends mere monetary settlements. It embodies the recognition of harm, acknowledgment of responsibility, and the commitment to rectify the injustices endured by the victims and their families. For Iran, proactively engaging in reparative measures presents not only a pragmatic response but also a moral and legal obligation under

54 Hamid **Kazemi**/Naser **asiabipourimani**, "Reparation of Aerial Accidents under International Law with Emphasize on 752 Ukrainian Flight", *Legal Research Quarterly*, 25, (99), 2022, p. 369-393.

55 Cymie R **Payne**, "Developments in the Law of Environmental Reparations: A Case Study of the Un Compensation Commission, Environmental Protection and Transitions from Conflict to Peace: Clarifying Norms, Principles and Practices", Oxford University Press, 2017 Forthcoming, London 2016, p. 1-31.

56 Sherman **Naser**, "Air Carrier's Liability Towards the Air Passenger: A Critical Examination of the International Carriage Legislation." *PalArch's Journal of Archaeology of Egypt / Egyptology*, 17, (11), 2020, p. 41-50.

57 Claudia **Candelmo**, *State Responsibility and Terrorism: New Perspectives in International Law*, 1st Edition, Edward Elgar Publishing, 2024.

international law⁵⁸. The act of providing compensation and reparation signals Iran's adherence to international norms and its willingness to uphold the principles of accountability and justice in the international community.

Opting for such a course of action prior to the initiation of legal proceedings by affected nations namely Canada, Ukraine, Sweden, or the UK demonstrates a proactive and responsible stance. It fosters a foundation for diplomatic resolution and mitigates the potential for prolonged legal and political conflicts. Furthermore, engaging in transparent and constructive dialogues with the victims' families and the international community regarding the terms and execution of reparations can enhance mutual understanding and facilitate the healing process⁵⁹.

The financial compensation aspect should be carefully calibrated to adequately reflect the gravity of the loss and suffering experienced by the families, ensuring that the reparations are commensurate with the scale of the tragedy. However, beyond monetary compensation, the broader reparative measures including public acknowledgment of the facts, official apologies, and commitments to prevent future occurrences carry significant weight. These measures contribute to the satisfaction and rehabilitation components of reparation, underscoring the importance of addressing both material and non-material aspects of harm⁶⁰.

Implementing guarantees of non-repetition is crucial in restoring faith in the safety and security of international aviation. This involves Iran undertaking substantive reforms in its military engagement rules and airspace management protocols to prevent the recurrence of such tragic incidents. The establishment of such safeguards, in consultation with international aviation and legal bodies, would contribute to the strengthening of global aviation safety standards.

In sum, the approach to financial compensation and reparation in the aftermath of the Flight PS752 downing necessitates a comprehensive, transparent, and empathetic process. It requires Iran to engage

58 Fatemeh **Shayesteh**/Hyunjin **Seo**, "Competing Frames on Social Media: Analysis of English and Farsi Tweets on Iran Plane Crash." *The Journal of International Communication*, 28, (1), 2022, p. 47-69.

59 S. Hadi **Mahmoudi**/Sima **Moradinasab**, "Article: The Analysis of Evolution of Human Rights Considerations of Aviation Security." *Air and Space Law*, 49, (2), 2024, p. 191-216.

60 Mahan **Ashouri**, "The Role of Transnational Private Actors in Ukraine International Flight 752 Crash in Iran under Economic Sanctions Pressure." *J. Nat'l Sec. L. & Pol'y*, 11, 2020, p. 655-688.

substantively with the affected families and the international community, demonstrating a commitment to justice, accountability, and the prevention of future tragedies in the skies⁶¹.

III. ICJ CASE: AERIAL INCIDENT OF 8 JANUARY 2020 (CANADA, SWEDEN, UKRAINE, AND UNITED KINGDOM V. ISLAMIC REPUBLIC OF IRAN)

This case is a pivotal instance of international legal discourse, particularly concerning the Montreal Convention⁶². The central legal principle scrutinized in this case is the responsibility of states under international law to safeguard civil aviation against unlawful acts. The downing of Ukraine International Airlines Flight PS752 by Iranian forces brings to the forefront the crucial issue of how international law delineates the obligations of states to prevent such tragedies and the broader implications for international civil aviation safety standards. This case serves as a test of the effectiveness and reach of international treaties in holding states accountable for their actions or omissions that endanger civil aviation⁶³.

The legal proceedings involve multiple countries - Canada, Sweden, Ukraine, and the United Kingdom - accusing Iran of breaching obligations under the Montreal Convention. The allegations primarily focus on two aspects: First, Iran's failure to prevent the unlawful destruction of a civilian aircraft, a clear contravention of Article 1 of the Montreal Convention, sets a concerning precedent for international aviation safety. This breach not only underscores the imperative of state accountability in adhering to international treaties but also highlights the critical need for robust mechanisms to safeguard civilian aircraft against such unlawful acts. The Convention's mandate, as delineated in Article 1, is explicit in criminalizing any form of violence or interference that jeopardizes the safety of civil aviation. Iran's inability or unwillingness to prevent this tragedy thus directly contravenes the foundational principles of the Convention, raising serious questions about compliance and enforcement

61 Theo Van **Boven**, *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in the Making*, In *Victims' Rights to a Remedy and Reparation: The New United Nations Principles and Guidelines*, Brill | Nijhoff, 2009, p. 17-40.

62 Montreal Convention, p. 4.

63 Novikova **T.V./Kuts S.O.**, "Legal Consequences for the State Arising from the Use of Weapons against Civil Aircraft: Review and Legal Framework Development." *RUDN Journal of Law*, 25, (4), 2021, p. 831-54.

in the context of international aviation law. Second, the assertion that Iran did not conduct an adequate and transparent criminal investigation into the incident, as mandated by international legal standards^{64,65}. This case is anchored in the provisions of Article 36, paragraph 1, of the Statute of the ICJ, and Article 14, paragraph 1, of the Montreal Convention, which collectively establishes the Court's jurisdiction in this matter⁶⁶. The procedural progress of the case, marked by the setting of deadlines for Memorial and Counter-Memorial submissions, reflects the ongoing nature of these legal proceedings and highlights the complexities involved in international disputes involving multiple nation-states and an array of legal principles and frameworks.

A. Identifying Significant Contribution

The ICJ case regarding the aerial incident of January 8, 2020, is definitely an instrument of significant contribution regarding the gap about the absolute consequences of any mistaken aerial accident. Given that the final judgment of the ICJ will play a crucial role in shaping international law, particularly regarding state responsibility and aviation safety. Key considerations include whether Iran breached its obligations under the Montreal Convention. The decision is poised to explore broader issues such as state accountability, reparations, and measures to prevent similar incidents in the future. This ruling may set a critical precedent in how international aviation incidents are adjudicated, potentially affecting future treaty interpretations and state conduct under analogous circumstances. Moreover, it could reshape legal approaches to military errors or misjudgments in civil aviation. Thus, this case symbolizes the complex relationship between international law, state responsibility, and justice in a global context, highlighting the crucial role of international legal bodies in addressing multifaceted transnational disputes. The outcome is expected to make a substantial contribution to discussions on

64 ICJ, "Aerial Incident of 8 January 2020 (Canada, Sweden, Ukraine, and United Kingdom v. Islamic Republic of Iran)", Order of 16 October 2023 [2023] ICJ Rep, p. 4, <https://www.icj-cij.org/sites/default/files/case-related/190/190-20231016-ord-01-00-en.pdf>, Accessed 09.05.2024.

65 Klaudia **Klonowska**/Shraddha **Dubey**, Year in Review 2020, In Yearbook of International Humanitarian Law, Volume 23 (2020). Edited by Terry D. Gill, Robin Geiß, Heike Krieger, and Rebecca Mignot-Mahdavi. The Hague: T.M.C. Asser Press, 2022, p. 157-246.

66 ICJ, p. 17

international law and state accountability, with wide-ranging implications for civil aviation safety and global diplomatic relations.

B. Evaluation

In the realm of international jurisprudence, there exists no absolute and definitive legal precedent mandating a singular course of action for addressing incidents of aerial nature where other than reparations are suggested as practical remedy. This absence of precedent underscores a prevalent observation: reparations emerge as the principal, viable remedy in the wake of responsibilities attributed to such incidents. Typically, this redress manifests through *ex gratia* payments from the accountable state, symbolizing a voluntary, albeit non-compulsory, acknowledgment of liability⁶⁷. Certain instances, such as the Korean Airline Tragedy of 1983, offer apologies as a form of remedy. Still, in that instance, it was also observed that reparations or the payment of damages had been made by the responsible country⁶⁸. Consequently, the adoption of *ex gratia* payments has evolved into a customary strategy for states, facilitating the resolution of disputes without the explicit admission of legal obligation. There is a subtle difference between reparations and *ex gratia* payments as the second one is voluntary action. But they are the same as the practical consequence or remedy.

Regarding the specific case of flight PS752, the consideration of *ex gratia* payments represents a pragmatic and expedited approach to ameliorating the discord between Iran and the aggrieved nations. This method not only aligns with established international practices but also offers a pathway to settlement that circumvents the protracted complexities inherent in legal adjudication. Thus, in the context of international diplomacy and conflict resolution, *ex gratia* payments serve as a tangible expression of remorse and a step towards reconciliation, underscoring their significance as a practical mechanism for dispute resolution.

CONCLUSION

The downing of Ukraine International Airlines Flight PS752 by Iran in 2020 has become a focal point in the ongoing evolution of International Air Law, highlighting the critical balance between airspace sovereignty,

67 **Klonowska/Dubey**, p.17.

68 **Chae-Jin Lee**, “South Korea in 1983: Crisis Management and Political Legitimacy.” *Asian Survey*, 24, (1), 1984, p. 112-21.

state responsibility, and the safety of civilian air travel. This incident, with its tragic loss of life, underscores the pressing need for robust legal mechanisms to protect civilian aircraft, particularly in areas of heightened military activity. The complexities of this case illustrate the interplay between sovereign rights and international legal obligations, as framed by treaties like the Montreal Convention, and raise questions about the adequacy of current legal frameworks in dealing with incidents of this nature.

The case has sparked significant legal discourse, focusing on the appropriate legal responses to incidents attributed to human error within the realm of international aviation law. Iran's admission of mistakenly shooting down the aircraft, cited as a human error, adds a layer of complexity to the legal resolution of such incidents. In this context, the incident is being meticulously assessed under the auspices of International Air Law, taking into consideration foundational legal instruments like the Chicago Convention, relevant UN treaties, and judgments from various court cases.

Typically, discussions in these scenarios pivot around concepts of Criminal Liability and Compensation or Reparation. However, the unique circumstances of the Flight PS752 incident point towards Compensation or Reparation as the more pragmatic route for Iran, considering the international legal principles and the imperatives of justice for the victims' families. The expected verdict of the ICJ in this case is anticipated to provide much-needed clarity on state responsibilities under treaties like the Montreal Convention and set a precedent for the handling of similar incidents in the future.

In sum, the findings of this work are as follow:

- The ICJ case regarding the aerial incident of January 8, 2020, will be an instrument of significant contribution regarding the gap about the absolute consequences of any mistaken aerial accident.
- The lack of absolute legal precedents for non-reparation remedies in aerial incidents underscores reparations and ex gratia payments as the primary resolution methods. This approach reflects a customary practice in international law, facilitating dispute resolution through voluntary payments that even imply responsibility without formal legal admission.
- In the case of flight PS752, the consideration of ex gratia payments can be a pragmatic and expedited approach to ameliorating the discord between Iran and the aggrieved nations.

BIBLIOGRAPHY

- Aerial Incident Case (US v Bulgaria) [1959] ICJ Rep 28, p. 9.
- Agustini, Elfita/Kareng, Yaya/Victoria**, Ong Argo, “The Role of ICAO (International Civil Aviation Organization) in Implementing International Flight Safety Standards”, *KnE Social Sciences*, 5 (1), 2021, 2024, pp. 100–114.
- Ashouri**, Mahan, “The Role of Transnational Private Actors in Ukraine International Flight 752 Crash in Iran under Economic Sanctions Pressure”, *Journal of National Security Law & Policy*, 11, 2020, pp. 655-688.
- Boven**, Theo Van, “Reparations for Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in the Making. In *Victims’ Rights To A Remedy And Reparation: The New United Nations Principles And Guidelines*”, 2009, Brill | Nijhoff, pp. 17-40.
- Burton**, Hafner/**Emilie**, M/**Tsutsui**, Kiyoteru, “Justice Lost! The Failure of International Human Rights Law to Matter Where Needed Most”, *Journal of Peace Research*, 44 (4), 2007, pp. 407-425.
- Candelmo**, Claudia, *State Responsibility and Terrorism: New Perspectives in International Law*, 1st Edition, Edward Elgar Publishing, 2024.
- Chava**, Shachor-Landau, “The Judgment of the International Court of Justice in the Aerial Incident Case between Israel and Bulgaria”, *Archiv des Völkerrechts*, 8, (3) 1960, p. 277-90.
- Chicago Convention on Civil Aviation, 1944**, “Convention on International Civil Aviation”, Chicago, adopted 7 December 1944, entered into force 4 April 1947. 15 UNTS 295, p. 41.
- Dadhich**, Nityesh, “Attack on a Civilian Aircraft by a State: Imposing Obligations for Wrongful Actions”, *Amherst College Law Review*, 5, (6), 2023, p. 125.
- E. Haley**, Andrew, “Space Law-Basic Concepts”, 1st Edition, *Tennessee Law Review*, 1955.
- Eslami**, Mohammad, “Iran’s Ballistic Missile Program and Its Foreign and Security Policy Towards the United States under the Trump Administration”, *Revista española de ciencia política*, (55), 2021, p. 37-62.
- Fox**, Lyttleton, “The Law of Aerial Navigation”, *The North American Review*, 190(644), 1909, pp. 101-106.
- Galbraith**, Jean, “U.S. Drone Strike in Iraq Kills Iranian Military Leader Qasem Soleimani”, *The American Journal of International Law*, 114, (2), 2020, p. 313-23.
- Guatemala City Protocol, 1971**, “Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft” Guatemala City, adopted 20 February 1971, 974 UNTS 255, p. 11.

Hague Protocol, 1955, “Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air”, The Hague, adopted 28 September 1955, entered into force 1 August 1963, 478 UNTS 371, p. 17.

Harahap, Rahmad Wahid Affandi, “The Criminal Liability of Air Flight Accidents”, *Locus Journal of Academic Literature Review*, 1, (6) 2022, pp. 349-356.

Heinrich, Welf, “Air Law and Space”, *Saint Louis University Law Journal*, 5, 1958, p. 11.

ICAO Council, “Libyan Airline Tragedy, 1973”, p. 40.

International Civil Aviation Organization Council, “Report on the Libyan Airline Tragedy, 1973” (ICAO 1973), p. 40.

International Civil Aviation Organization Council, “Libyan Airline Tragedy, 1973”, (ICAO 1973), p. 40.

International Civil Aviation Organization, “Convention on International Civil Aviation”, Chicago Convention, (adopted 7 December 1944, entered into force 4 April 1947) Art 3, p. 116.

International Court of Justice, Case Concerning the Aerial Incident of 27 July 1955 (United States of America v. Bulgaria), [1959] ICJ Rep 127, p. 9.

International Court of Justice, “Aerial Incident of 8 January 2020 (Canada, Sweden, Ukraine, and United Kingdom v. Islamic Republic of Iran)”, Order of 16 October 2023 [2023] ICJ Rep, p. 4.

Jacobini, Horace Bowman, “Observations on International Aviation Law”, *Social Science*, 23 (1), 1948, pp. 51-53.

Kazemi, Hamid/**Asiabipourimani**, Naser, “Reparation of Aerial accidents under International Law with Emphasize On 752 Ukrainian Flight”, *Legal Research Quarterly*, 25 (99), 2022, pp. 369-393.

Khorshidi Athar, Mohammad/**Seyed Hesamadin**, Lesani, “A Critical View Towards U.S. Claim of Preemptive Self-Defense in the Assassination of General Qasem Soleimani”, *Iranian Journal of International and Comparative Law*, 1, (1), 2023, p. 12.

Klonowska, Klaudia/**Dubey**, Shraddha, “Year in Review 2020, In T. D. Gill, R. Geiß, H. Krieger, & R. Mignot-Mahdavi (Eds.),” *Yearbook of International Humanitarian Law*, Volume 23, 2020, T.M.C. Asser Press, pp. 157-246.

Kotaite, Assad, “ICAO and the Development of Air Transport”, *Aircraft Engineering and Aerospace Technology*, 52(2), 1980, pp. 17-20.

Lee, Chae-Jin, “South Korea in 1983: Crisis Management and Political Legitimacy”, *Asian Survey*, 24, (1), 1984, pp. 112-121.

Lele, Ajey/Roy, Kritika/Jaison, Carl/Mann, Poonam/Gogna, Sanjana/Sharma, Anu/Mani, Aditya/Malhotra, Divya, “Air Power”, *Journal of Air Power and Space Studies*, 15, (1), 2020, p. 176

Mahmoudi, S. Hadi/Moradinasab, Sima, “Article: The Analysis of Evolution of Human Rights Considerations of Aviation Security”, *Air and Space Law*, 49, (2), 2024, pp. 191-216.

Montreal Agreement, 1966, “Agreement Relating to Liability Limitations of Air Carriers”, Montreal, adopted 13 May 1966, 574 UNTS 159.

Montreal Protocol, 1975, “Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation”, Montreal, adopted 24 February 1975, entered into force 6 August 1975, 1158, UNTS 177, p. 13.

Morgan, Craig, “Legal Argumentation in International Crises: The Downing of Korean Air Lines Flight 007”, *Harvard Law Review*, 97 (5), 1984, pp. 1198-1213.

Naser, Sherman, “Air Carrier’s Liability Towards the Air Passenger: A Critical Examination of the International Carriage Legislation”, *PalArch’s Journal of Archaeology of Egypt / Egyptology*, 17, (11), 2020, pp. 41-50.

Nathan, James A., “A FRAGILE DETENTE: The U-2 Incident Re-examined”, *Military Affairs*, 39 (3), 1975, pp. 97-104.

Paris Convention, 1919, “Convention relating to the regulation of aerial navigation”, Paris, adopted 13 October 1919, entered into force 1 January 1920) 11 LNTS 173, p. 476.

Payne, Cymie R., “Developments in the Law of Environmental Reparations: A Case Study of the Un Compensation Commission”, *Environmental Protection and Transitions from Conflict to Peace: Clarifying Norms, Principles and Practices*, Oxford University Press, 2017 Forthcoming, London 2016, pp. 1-31.

Rahman, Mizanur M., *International Law in Changing World*, 1st Edition, Palal Prokashoni, Dhaka 2011.

Romera, Martinez/Harro van Asselt, Beatriz, “The International Regulation of Aviation Emissions: Putting Differential Treatment into Practice”, *Journal of Environmental Law*, 27 (2), 2015, pp. 259-283.

Shayesteh, Fatemeh/Seo, Hyunjin, “Competing Frames on Social Media: Analysis of English and Farsi Tweets on Iran Plane Crash”, *The Journal of International Communication*, 28, (1), 2022, p. 47-69.

Sochor, Eugene. “ICAO and Armed Attacks against Civil Aviation”, *International Journal*, 44 (1), 1989, pp. 134-170.

Tokyo Convention, 1963, “Convention on Offences and Certain Other Acts Committed on Board Aircraft”, Tokyo, adopted 14 September 1963, entered into force 4 December 1969, 704 UNTS 219, p. 8.

T.V., Novikova/S. O., Kuts, “Legal consequences for the state arising from the use of weapons against civil aircraft: review and legal framework development”, RUDN Journal of Law, 25 (4), 2021, pp. 831-854.

UN Charter, (adopted 26 June 1945, entered into force 24 October 1945) art 2 (4), p. 74.

United Nations General Assembly, “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” (Resolution 60/147, 16 December 2005), p. 9.

Warsaw Convention, 1929, “Convention for the Unification of Certain Rules Relating to International Carriage by Air,” Warsaw, adopted 12 October 1929, entered into force 13 February 1933, 137 LNTS 11, p. 472.

Wright, Quincy, “Legal Aspects of the U-2 Incident”, American Journal of International Law, 54 (4), 1960, pp. 836-854.