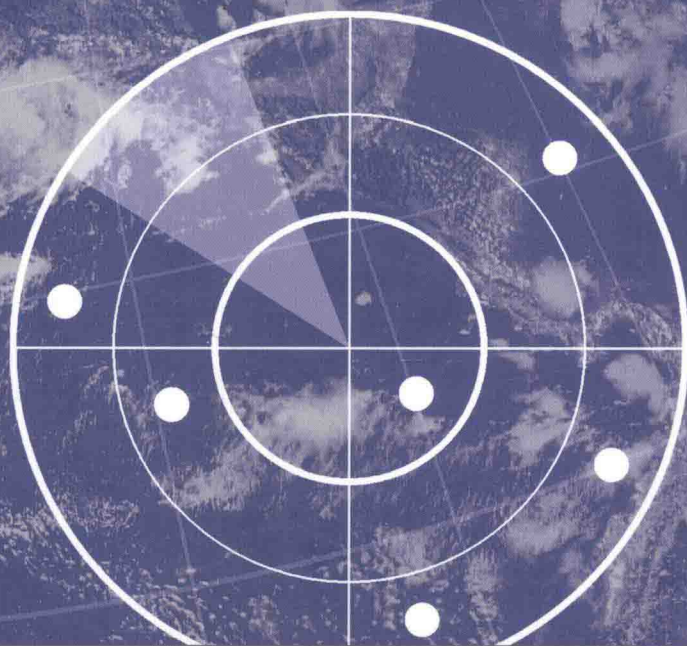


AVIATION LAW AND POLICY SERIES

Regional Aviation Safety Organisations

**Enhancing Air Transport Safety
through Regional Cooperation**

MIKOŁAJ RATAJCZYK



Wolters Kluwer
Law & Business

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Regional Cooperation

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With love, to Sarah and Martha

About the Author

Mikołaj Ratajczyk (Ph.D.) was born on 6 September 1978 in Warsaw, Poland. He graduated from the Warsaw University as a Master of Law and Administration in 2002, and subsequently completed postgraduate studies in civil aviation management at the National Academy of Defense in Warsaw. He obtained his doctorate degree in 2014 from the International Institute of Air and Space Law of the Leiden University.

In 2003, he joined the Polish Civil Aviation Authority where he worked in positions of increasing responsibility until 2006, when he was seconded to the Air Transport Directorate of the European Commission and where he dealt with development of policy and legislation related to air accident investigations, occurrence reporting and international safety information exchange programmes.

In 2011, he worked for the Polish Presidency of the European Union, and was involved in chairing the Aviation Working Group of the EU Council. In 2012 he joined the European Aviation Safety Agency, and is currently involved in supporting the European Commission in developing a new aviation safety policy for the EU.

Mikołaj is a member of the European Air Law Association (EALA), and periodically lectures on aviation safety law at the International Institute of Air and Space Law of the Leiden University. He has published articles on aviation related topics in Polish and international aviation law periodicals, and presented papers on aviation safety at international conferences.

Foreword

In 2014, the international aviation community celebrated the 70th anniversary of the signing of the Chicago Convention. During this time, safety has been, and remains, the primary objective for ICAO, regulators and industry in the development of civil aviation. The current safety record of the air transport sector is the result of concerted and tireless efforts of aviation safety professionals all over the world. With global aviation traffic predicted to double in the next twenty years, increased efforts are needed today in order to maintain and further improve the safety performance of civil aviation, especially in regions with higher than average accident rates.

While the concept of Regional Aviation Safety Organisations, which is the subject matter of this book, was not foreseen in 1944, the Chicago Convention has proven to be flexible enough to accommodate their development. ICAO has played an instrumental role in actively promoting regional cooperation in civil aviation for many years now, including, with respect to safety, and has always seen such cooperation as a valuable tool for achieving effective and harmonised implementation of the International Standards and Recommended Practices contained in the 19 Annexes to the Chicago Convention.

The last five years in particular have seen a number of important developments related to the promotion of regional cooperation, where ICAO has taken a leadership role. Perhaps foremost among these, and indeed a turning point for global aviation, was the 2010 ICAO Council endorsement of the new Policy and Framework for Regional Cooperation. It formalised the collaborative basis between ICAO and regional aviation safety bodies, both in the technical and policy aspects of international civil aviation. This new policy is currently being implemented by ICAO through arrangements with regional organisations and regional civil aviation bodies, many of which have established specialised regional safety agencies dealing with regulatory oversight or aircraft accident investigations.

In 2011, ICAO further hosted its first Symposium on Regional Aviation Safety Organisations, which reconfirmed the value of this approach for States and industry alike. ICAO has also been supporting States at a very practical level, for example by publishing manuals on the functioning of Regional Aviation Safety Organisations, as well as disseminating best practices. I am confident that ICAO will continue to play an

active role in promoting these organisations, which can be seen as an alternative solution to nationally-based safety oversight and play a strategic role in aviation's ever more global safety planning.

All of the above considerations make this work by Dr Mikołaj Ratajczyk a very timely contribution to discussions on the value of regional cooperation in civil aviation safety, not to mention the challenges that States and Regional Aviation Safety Organisations encounter in the design and functioning of such bodies. This study, which is the first comprehensive book available on this topic, not only provides an overview of the current state of play with regard to regional cooperation on civil aviation safety, but also analyses the place of Regional Aviation Safety Organisations in the international legal framework. In doing so, the work of Dr Ratajczyk provides valuable food for thought on the future role of such organisations, and the concepts which underpin them, in the global governance of air transport. This study also reflects on the basic principles of the Chicago Convention, which remain the basis for the safe and orderly development of air transport.

Mr Ratajczyk's *Regional Aviation Safety Organisations* is comprehensive in scope and greatly benefits from the practical experience of the author, who has worked in national as well as EU aviation administrations – including the European Aviation Safety Agency and the European Commission. It will doubtlessly be of considerable interest to safety management professionals, officials of aviation authorities, legal practitioners and scholars of international aviation law.

Raymond Benjamin
Secretary General
International Civil Aviation Organization
May 2015

List of Figures

- Figure 1.1: Scheduled Commercial Air Transport Fatal Accident Rate per 10 Million Flights by World Region, 2004-2013
- Figure 1.2: USOAP Effective Implementation Level by UN Region
- Figure 1.3: Departures in Scheduled Commercial Air Transport per UN Region
- Figure 2.1: Differences Identified through USOAP Compliance Checklists (April 2005 to August 2010)
- Figure 2.2: Level of Effective Implementation of the Eight ICAO CEs of State Safety Oversight (ICAO Member States, August 2014)
- Figure 2.3: Evolution of the SAFA Inspections Ratio on a Regional Basis
- Figure 2.4: ICAO Regional Aviation Safety Groups
- Figure 2.5: Global Aviation Safety Oversight Network
- Figure 3.1: Typology of Regional Aviation Safety Bodies
- Figure 3.2: Existing and Planned RASOs in Africa (2014)
- Figure 3.3: RASOs in Latin and Central America
- Figure 3.4: Organisational Structure of the Interstate Aviation Committee
- Figure 4.1: The European Aviation Safety Landscape (2014)
- Figure 5.1: Transfer of State Safety Functions from a National to a Regional Level

List of Tables

Table 1.1:	Critical Elements of State Safety Oversight System and Their Correlation with Accident Rates
Table 2.1:	Improvement in the Level of Effective Implementation of the Eight ICAO CEs of State Safety Oversight (Sample of 35 ICAO Member States)
Table 2.2:	ICAO Member States with Significant Safety Concerns (SSC)
Table 3.1:	Transition of ICAO COSCAPs into RSOOs (2014)
Table 5.1:	Level of Delegation of State Safety Functions to Selected RASOs
Table 5.2:	RASOs/Pre-RASOs Established since 2003 and Their Predecessors
Table 5.3:	Legal Instruments Used to Establish RASOs/Pre-RASOs
Table 6.1:	Indicators for Determining International and Domestic Legal Personality of Selected RASOs

List of Abbreviations

AAMAC	Civil Aviation Authorities of Africa and Madagascar (Autorités Africaines et Malgache de l'Aviation Civile)
AASL	Annals of Air and Space Law
ACAAC	Association of Civil Aviation Authorities of the Caribbean
ACAC	Arab Civil Aviation Commission
ACSA	Central American Aviation Safety Agency (Agencia Centroamérica para la Seguridad Aeronáutica)
AD	Airworthiness Directive
AFCAC	African Civil Aviation Commission
AFI-CIS	AFI - Cooperative Inspector Scheme
AIP	Aeronautical Information Publication
AMC	Acceptable Means of Compliance
AMO	Approved Maintenance Organisation
ANC	Air Navigation Commission
ANS	Air Navigation Services
ANSP	Air Navigation Service Provider
AOC	Air Operator's Certificate
ASA	Air Services Agreement
ASECNA	Agency for Aerial Navigation Safety in Africa and Madagascar (l'Agence pour la Sécurité de la Navigation Aérienne en Afrique et à Madagascar)
ASL	Air and Space Law
ASSA-AC	Central African Aviation Safety Oversight Agency (Agence de Supervision de la Sécurité Aérienne en Afrique Centrale)
ATM	Air Traffic Management
AU	African Union
BAGAIA	Banjul Accord Group Accident Investigation Agency
BAGASOO	Banjul Accord Group Aviation Safety Oversight Organisation
BASA	Bilateral Aviation Safety Agreement
CAA	Civil Aviation Authority

List of Abbreviations

CARICOM	Caribbean Community
CASA	Civil Aviation Safety Authority of Australia
CASSOA	Civil Aviation Safety and Security Oversight Agency
CASSOS	Caribbean Aviation Safety and Security Oversight System
CE	Critical Element of State Safety Oversight
CEMAC	Economic Community of Central African States (Communauté Economique et Monétaire de l' Afrique Centrale)
CEPS	Centre for European Policy Studies
CFR	Code of Federal Regulations
CIS	Commonwealth of Independent States
CJEU	Court of Justice of the European Union
CMA	Continuous Monitoring Approach
CMLR	Common Market Law Review
COSCAP	Cooperative Development of Operational Safety and Continuing Airworthiness Programme
CS	Certification Specification
CSA	Comprehensive Systems Approach
DARIO	Draft Articles on Responsibility of International Organizations
DASR	Draft Articles on State Responsibility
DOA	Design Organisation Approval
EAA	European Aviation Authority
EAC	East African Community
EASA	European Aviation Safety Agency
ECAC	European Civil Aviation Conference
ECCAA	Eastern Caribbean Civil Aviation Authority
ECR	European Court Reports
EFOD	Electronic Filing of Differences
EFTA	European Free Trade Association
EJIL	European Journal of International Law
ELR	European Law Review
ENCASIA	European Network of Civil Aviation Safety Investigation Authorities
ENP	European Neighbourhood Policy
EP	European Parliament
EU	European Union
EUROCONTROL	European Organisation for the Safety of Air Navigation
FAA	US Federal Aviation Administration
GASON	Global Aviation Safety Oversight Network
GASP	Global Aviation Safety Plan
HLSC (2010)	ICAO High Level Safety Conference (2010)
IAC	Interstate Aviation Committee
IAEA	International Atomic Energy Agency
IASA	International Aviation Safety Assessment
ICAN	International Commission for Air Navigation
ICAO	International Civil Aviation Organization
ICJ	International Court of Justice

ICVM	ICAO Coordinated Validation Missions
IDISIR	Safety Ramp Inspections Data Exchange Programme
IIL	Institute of International Law
ILC	International Law Commission of the United Nations
ILM	International Legal Materials
IMO	International Maritime Organization
IOLR	International Organizations Law Review
ISASI	International Society of Air Safety Investigators
JAA	Joint Aviation Authorities
JALC	Journal of Air Law and Commerce
JAR(s)	Joint Aviation Requirements
JEPP	Journal of European Public Policy
LACAC	Latin American Civil Aviation Commission
LAR	Latin American Aviation Regulation
LNTS	League of Nations Treaty Series
MARB	Monitoring and Assistance Review Board
MoC	Memorandum of Cooperation
MoU	Memorandum of Understanding
NAA	National Aviation Authority of an EU Member State
NPA	Notice of Proposed Amendment
OCLJ	Ocean and Coastal Law Journal
OECS	Organisation of the Eastern Caribbean States
OJ	Official Journal of the European Union
PANS	Procedures for Air Navigation Services
PASO	Pacific Aviation Safety Office
PCIJ	Permanent Court of International Justice
PICASST	Pacific Islands Civil Aviation Safety and Security Treaty
PSC	Port State Control
RAIO	Regional Accident Investigation Organisation
RANP	Regional Air Navigation Plan
RASG	Regional Aviation Safety Group
RASO	Regional Aviation Safety Organisation
RCAA	Regional Civil Aviation Authority
REC	Regional Economic Community
REIO	Regional Economic Integration Organisation
RIAA	Reports of International Arbitral Awards
RSOO	Regional Safety Oversight Organisation
RTK	Revenue Tonne Kilometre
SADC	Southern African Development Community
SAFA	Safety Assessment of Foreign Aircraft
SARP(s)	Standards and Recommended Practices
SAS	Scandinavian Airline System
SASO	Southern African Development Community Aviation Safety Organisation
SES	Single European Sky
SMS	Safety Management System

List of Abbreviations

SRVSOP	Regional Cooperation System on Safety Oversight in Latin America (Sistema Regional de Cooperación para la Vigilancia de la Seguridad Operacional)
SSC	Significant Safety Concern
STK	Scandinavian Flight Safety Office
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
UAE	United Arab Emirates
UEMOA	West African Economic and Monetary Union
UKTS	United Kingdom Treaty Series
UN	United Nations
UNTS	United Nations Treaty Series
US	United States
USC	United States Code
USD	United States Dollars
USOAP	Universal Safety Oversight Audit Programme
WA	Working Arrangement
WTO	World Trade Organization

Acknowledgements

This book is a commercial edition of a doctorate thesis which was defended at the Leiden University in the Netherlands in November 2014. It is the result of five years of research on legal aspects of regional cooperation in civil aviation safety. While writing a doctorate thesis is at the end of the day a very personal experience, I have been fortunate to be supported in this endeavour by a number of extraordinary people, colleagues and friends, without whom – and of that I am absolutely sure – this work would have never been completed.

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Mikołaj Ratajczyk
Brussels, March 2015

Table of Contents

About the Author	vii
Foreword	xv
List of Figures	xvii
List of Tables	xix
List of Abbreviations	xxi
Acknowledgements	xxv
CHAPTER 1	
Research Questions, Methodology and Structure of the Study	1
§1.01 Objective of the Study	1
§1.02 Civil Aviation Safety as a Global Concern	2
§1.03 The ICAO Global Aviation Safety Plan	10
§1.04 Towards Regional Cooperation on Civil Aviation Safety	11
§1.05 Research Methodology and Main Sources Used	14
§1.06 Review of the Principal Literature on International Law and Aviation Safety Regulation	16
§1.07 Structure of the Study	17
CHAPTER 2	
Towards a Global Aviation Safety Oversight Network: Regional Cooperation on Aviation Safety in the Context of the Chicago Convention	19
§2.01 Introduction	19
§2.02 Strengths and Weaknesses of the Chicago Convention from an Aviation Safety Perspective	20
[A] The Principle of State Sovereignty under the Chicago Convention	22
[B] Implementation of SARPs and Notification of Differences	23
[C] Recognition of Certificates and Licences	30
[1] Certificates and Licences Envisaged under the Chicago Convention	30

Table of Contents

	[2] Recognition of an Air Operator's Certificate	32
	[3] Other Certificates Not Envisaged under the Chicago Convention	34
	[4] International Aviation Safety Agreements	37
	[D] Role of ICAO in Global Safety Oversight	40
	[E] ICAO Enforcement Efforts and Competences	44
§2.03	Lessons Learned from the International Maritime Sector	47
§2.04	ICAO and the Regional Governance of Civil Aviation Safety	53
	[A] Development of ICAO Regional Policy	53
	[B] The 2010 ICAO Policy and Framework for Regional Cooperation	55
	[C] ICAO Views on Regional Aviation Safety Organisations	58
§2.05	Proposal for a Global Aviation Safety Oversight Network	62
§2.06	General Conclusions	64
CHAPTER 3		
	Definition and Typology of Regional Aviation Safety Organisations	69
§3.01	Introduction	69
§3.02	The RASO Concept in State and ICAO Practice	69
§3.03	Proposal for the Definition of a RASO	71
§3.04	Typology of Regional Aviation Safety Bodies	73
	[A] Pre-RASO (Type I): Regional Cooperation Projects of a Technical Nature	74
	[1] COSCAPs and Their Transition into RASOs	75
	[2] Regional Cooperation System on Safety Oversight in Latin America	81
	[a] Legal Basis and Organisational Set-Up	81
	[b] Main Safety Functions	81
	[c] Practical Aspects of Implementation	82
	[3] Regional Cooperative Safety Inspector Schemes	83
	[B] Pre-RASO (Type II): A Regional 'Association' of Aviation Safety Authorities	86
	[C] RASO (Type I): Regional International Aviation Safety Organisation	88
	[1] Civil Aviation Authorities of Africa and Madagascar	88
	[a] Legal Basis and Organisational Set-Up	88
	[b] Main Safety Functions	89
	[c] Practical Aspects of Implementation	90
	[2] The Pacific Aviation Safety Office	90
	[a] Legal Basis and Organisational Set-Up	90
	[b] Main Safety Functions	91
	[c] Practical Aspects of Implementation	92
	[3] The Interstate Aviation Committee	94
	[a] Legal Basis and Organisational Set-Up	94
	[b] Main Safety Functions	95