

COMPARATIVE AIR LAW^{**†}

Professor Ludwig Weber
Term I - (3 credits)

COURSE DESCRIPTION

Course No: ASPL 632

The first part of the course provides a general introduction to the comparative law approach and applies some basic concepts of the civil and common law traditions to the field of air law. The second part of the course deals with selected topics where applicable law has not, or only partially, been unified by private international air law conventions and where a comparative approach, based on national laws, must be used to find solutions. The selected topics include: the nature of the contract of carriage, aircraft manufacturers' liability, State liability for negligent certification of aircraft, air traffic controllers' liability, and liability for damage caused by aircraft on the ground.

Method of Evaluation: Final examination (date to be determined)

Teaching Hours: Wednesdays: 9:30 am-12:30 pm, Room 204 - NCDH

PROFESSOR INFORMATION: Preferred method of communication is by email or by appointment. To make appointments: **Phone:** (514) 954-8219 ext-8076; or **e-mail:** lweber@icao.int

PART I

1. General Aspects of the Comparative Approach
 - (a) Nature of the comparative approach
 - (b) Historical aspects
 - (c) Methodology
 - (d) Comparative approach in the international aviation context
2. The Law of Liability under Contract; Delict and Tort; Nature of the Contract of Carriage
 - (a) Basic issues relating to the law of contracts and the law of delicts/torts
 - (b) Contractual/Non-contractual liability
 - (c) Contract of carriage and liability arising from carriage

* McGill University values academic integrity. Therefore all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the Code of Student Conduct and Disciplinary Procedures (see www.mcgill.ca/integrity for more information).

* In accord with McGill University's Charter of Students' Rights, students in this course have the right to submit in English or in French any written work that is to be graded.

† In the event of extraordinary circumstances beyond the University's control, the content and/or evaluation scheme in this course is subject to change.

PART II

3. Notion and General Aspects of Product Liability Law
 - (a) Notion of product liability
 - (b) Product liability and manufacturer's liability
 - (c) Relevance in air and space law
4. The General Law of Product Liability
 - (a) Product liability in civil law
 - (b) Product liability in common law
 - (c) Product liability in international law
 - (d) Case study in product liability
5. The Liability of the Aircraft Manufacturer
 - (a) Notion of aircraft manufacturer; component manufacturer
 - (b) Liability under U.S. law: Courses of action
 - (c) Liability under the EU Product Liability Directive
 - (d) Liability under national laws
 - (e) Defences of the Manufacturer
 - (f) Case law and Case Study
6. Government Liability for Certification and Inspection
 - (a) General rules on government liability
 - (b) Government liability for aircraft certification
 - (i) under U.S. law
 - (ii) under European law
 - (iii) other laws
 - (c) Government liability for aircraft inspection and other government involvement
 - (d) Case study
7. Government Liability for Air Traffic Control Action
 - (a) Government involvement in ATC
 - (b) ATC - role and responsibility
 - (c) ATC liability under U.S. law
 - (d) ATC liability under French law
 - (e) Liability problems under laws of other countries
 - (f) Attempts to regulate ATC liability at international level
 - (g) Case study
8. Liability for Harm Caused to Persons and Property on the Surface
 - (a) Notion of surface damage
 - (b) Relationship to other forms of liability
 - (c) National law of the U.S., Canada, France and other countries
 - (d) International law: Rome Convention/Montreal Protocol
 - (e) Synopsis
9. Summary and Conclusion

BIBLIOGRAPHY

PART I

Compulsory materials:

Weber, L.J., *Comparative Air Law. Cases and Materials*, 2 vols., Institute of Air and Space Law, McGill Univ. (2005/2006)

Recommended materials:

David, R. and Brierley, J.E.C., *Major Legal Systems in the World Today*, 3rd ed., Parts I and III.

Lowenfeld, A.F., *Aviation Law*, 2nd ed., ch. 6, Matthew Bender, 1981

Von Mehren, A T. and Gordley, J.R, *Civil Law System: An introduction to the comparative study of law*, 2nd ed. Boston, Little, Brown, 1977

Zweigert, K. and Kötz, B. *An Introduction to Comparative Law*, 2 vols., North-Holland Pub. Co., 1977

PART II

Compulsory Materials:

Weber, L.J., *Comparative Air Law, Cases and Materials*, *supra* (2005/2006)

Recommended Materials:

Campbell, D., Kirwan, A.M.D., Fisher, J. (eds.), *Consumer protection 2000: public interest and corporate priorities in the 1990's*, Deventer/Cambridge, Mass., Kluwer 1994

Campbell, D. and Woodley, S., *Liability for products in a global economy*, The Hague, Kluwer 2005

Fowler, G.L. (ed.), *International product liability law: a worldwide desk reference*, Boston, Aspatore 2003

Khouri, N., *The Liability of Aircraft Manufacturers: A study of the present system and a proposal for a new approach*. Unpublished D.C.L. thesis, Institute of Air and Space Law, McGill Univ., 1980.

Kreindler, L.S., *Aviation Accident Law*, 3 vols, Matthew Bender, 1991.

Miller, C.J. (ed.), *Comparative Product Liability*, London: British Institute of International and Comparative Law, 1986.