LOAC-Seminar

Air and Missile Warfare

BrigGen Dr. Karl Edlinger, Austria
Agenda

• Legal Sources

• Definitions (aircraft, airspace, etc.)

• Air and Missile Warfare
  - Principle of Distinction
  - Precautions in Attack
  - Protected Persons and Objects
  - Exclusion Zones and No-Fly-Zones
  - Deception and Ruses of War
1944 Convention on International Civil Aviation (Chicago Convention)

- Intended in 1944 to encourage the safe and orderly development of the civil aviation industry

- **Not applicable to state aircraft**, however in conjunction with the UNCLOS it defines national and international airspace

- Codified the notion of **absolute sovereignty** over national airspace (no flying over or landing upon without consent)
• Entered into force 16 Nov 1994

• Previous Conventions failed to define the breadth of the territorial sea – UNCLOS defined it as 12nm from the baseline

• Created a structure for the governance and protection of the seas, including the airspace above it
Aircraft

- any vehicle (manned or unmanned) that can derive support in the atmosphere from the reactions of the air
- including vehicles with either fixed or rotary wings.

Missiles

Self-propelled unmanned weapons
- launched from aircraft, warships or land based launchers
- guided or ballistic
Aircraft

**State Aircraft**

**Military Aircraft**
- Any aircraft
- operated by the AF of a State
- bearing the military markings of a State
- commanded by a member of the AF
- controlled or manned by a crew subject to AF discipline

**Other State Aircraft**
- Any aircraft owned or used by a State serving exclusively non-commercial government functions

**Civilian Aircraft**
- Any aircraft other than State aircraft
Aircraft under Specific Protection

**Medical Aircraft**
Permanently or temporarily assigned exclusively to aerial transportation of
- wounded, sick or shipwrecked persons or
- Medical personnel or medical equipment

**Cartel Aircraft**
Granted safe conduct by agreement of the Belligerent Parties for the purpose of performing a specific function:
- Transport of POW
- Parlementaires
Airspace

- air up to the highest altitude at which aircraft can fly and below the lowest possible path of an earth satellite

- **National Airspace**
  - above national land territory
  - above national waters

- **International Airspace**
Maritime Zones

- National Airspace
- International Airspace

- Territorial Sea: 12 nm
- Contiguous Zone: 24 nm
- Exclusive Economic Zone: 200 nm
- Continental Shelf
- High Seas
- The deep sea bed
Baseline

All measures are taken from the baseline.
National Waters

- Internal waters
- Territorial sea
- Archipelagic waters
National Airspace

• Complete and exclusive sovereignty
  – right to regulate and control access
  – prevent access, exit and transit

• No customary right of innocent passage
Aircraft in Foreign Airspace

- State aircraft wishing to enter national airspace require diplomatic over-flight clearance

- All aircraft must obey the rules, regulations and procedures imposed (identification, routes, requests to land, etc.)

- Should not unreasonably endanger the aircraft
All aircraft enjoy the right of transit passage through the airspace above international straits overlapped by territorial seas.

Transit must be continuous, expeditious and must not pose a threat to the sovereignty of the nations involved.
Strategic Straits
**International Airspace**

- above the EEC, High Seas and above territories not subject to national sovereignty (e.g. Antarctica);

- open to aircraft of all States;

- may act in self-defence and engage in any reasonable activity that does not interfere with the rights of others.
Air Defence Identification Zones

Every State has a right to establish conditions and procedures for entry into its airspace.

Aircraft may be requested to identify themselves, failure of which, measures to ID them may be initiated.

Not a claim of sovereignty over international airspace - only a reference point for ID initiation.
Air Warfare in IACs

- Air and Missile Warfare
  - Principle of Distinction
  - Protected Persons and Objects
  - Methods of Warfare
  - Precautions in Attack
  - Exclusion Zones and No-Fly-Zones
  - Deception and Ruses of War
  - Contraband, Interception, Inspection and Capture
Principle of Distinction

Combatants

Military objectives

Civilians

Civilian objects
If you are in doubt about whether an object which is normally used for civilian purposes, is being misused for military purposes, presume that it is not being so used.
intentionally directing attacks against civilians

intentionally directing attacks against protected buildings and personnel

intentionally directing attacks against UN-personnel, etc.

intentionally directing attacks against buildings dedicated to religion, etc.
Special Protection

- objects indispensable to the survival of the civilian population
- works and installations containing dangerous forces
- cultural objects and places of worship
- natural environment
Aircraft have the nationality of their country of registry and both civilian and state aircraft must be marked as such.
Ruse of war or Perfidy

Medical helicopter

Camouflage

Mockups on fake runway

Using enemy insignia
Weapons in Air Warfare

- Cluster munitions
- Unnecessary suffering
- Indiscriminate weapons
- Poisoned weapons
- Bullets that explode
- Blinding laser weapons
Chemical weapons

Biological weapons

incendiary weapons may not be used ...

protected objects must not be booby-trapped ...
Exclusion Zones and No-Fly Zones

- No exemption from LOAC

- Right to control civil aviation in the vicinity of hostilities;

- Right to take appropriate measures of force protection;

- Extent, location and duration must be notified;

- Extent, location and duration must not exceed, what is reasonably necessary.
Thanks for your attention!