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Some Aspects of Air Carrier Liability. A Brazilian Perspective

From its inception in the late 1920s, the overriding purpose of private international aviation law has been to create uniformity of law across jurisdictions. Hence, a unified regime was created by the world community in the Warsaw Convention of 1929 establishing a liability ceiling, in order to protect the new sector rather than the consumer. In Brazil, the same perspective created in 1986, the Código Brasileiro de Aeronáutica, concerning domestic air carrier liability. Nevertheless, during the ensuing decades, efforts to update the legal regime, largely known as the Warsaw System, have led to fragmentation. The Montreal Convention of 1999 already ratified by Brazil, substitutes, among its parties, an entirely new treaty regime establishing, e.g., a two-tier system inconsistent with Brazilian Consumer Protection Code and its strict liability rules.

The author analyses the international treaty, the Consumer and Civil Codes, when antinomy arises, proposing solutions and precautionary rules related with good faith.