

From the Editorial Board

Articles

Konrad Garnowski, **Doubts regarding the legal status of the domestic passenger air carriage contract**

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Bibliography

Summary: The aim of the article is to present regulations regarding domestic passenger air carriage contracts. The paper contains an analysis of the applicable provisions, drawing attention to their diverse origins and reciprocal interactions between domestic regulations, international conventions and European Union regulations. The article also contains an overview of the practical consequences of these regulations, manifested in the granting to passengers of particular rights.

The paper focuses also on doubts surrounding domestic regulations applicable to the contract of domestic passenger air carriage. Presented further on is the issue of the exemption of air transport from the application of Polish Transport Law. The consequences of such exemption are described next, in particular the unclear matter of the right of passengers of domestic flights regarding the withdrawal from such contract on the basis of the provisions of Polish Transport Law.

Keywords: aviation law; domestic carriage of persons; passengers rights

JEL: K12, K15

Sylvia Kaczyńska, **To the destination throughout the airport – who actually participates in the execution of passenger air carriage**

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- I. Introduction
- II. Role of air carrier, airport operator and handling agent in the execution of air carriage contract. Mutual relations and relations with passengers
- III. From parking at the origin airport to parking at the final destination
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 - 1.1. Personal injury
 - 1.2. Delay or flight cancellations and overbooking
 2. Claims against the airport operator
- VI. Summary

Summary: The purpose of this article is to analyze the scope of duties and responsibilities of various entities involved in the execution of passenger air carriage contracts in the context of what may the consumer expect, and from whom, starting from when passengers arrive at the airport till the moment when they leave their final destination airport. The basic legal relation concerning the carriage of passengers and their baggage is formed between the passenger and their carrier. However, effective implementation of the contract requires involvement of other entities too, in particular airport operators and a ground handling agents, albeit they are not parties to the contract of carriage. However, each of these entities, while performing their duties, may contribute to the failure or to the improper performance of the contract of carriage. The article describes a passenger's journey, indicating the duties and roles played by particular entities and indicating the scope of their potential civil liability. The article indicates also the possibilities of enforcing passenger rights, including compensation of damages, under international, European and national law.

Key words: air carriage contract, airport, airport operator, air carrier, handling agent, civil liability, passengers and baggage handling

JEL: K130, L930, R410

Jakub Kociubiński, **Subsidizing the Construction and Modernization of Airports as an Aid to Airlines – Feasibility Analysis of Control in International Law**

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- I. Introduction – Problem Outline
- II. Definition of Subsidies – Scope, Controversies
- III. Existence of a Selective Advantage

- IV. Selective Advantage – Alternative Interpretation
- V. Criterion of Negative Effect on Competition and Trade
- VI. Conclusions

Summary: The issue of subsidies control in the global air transport market is a controversial one. In order to regulate this sphere, both political consensus of the States involved as well as an effective enforcement mechanism is required. One may even say that the very nature of public international law precludes the introduction of sufficiently effective measures that would prevent competition distortion as a result of subsidization. Public financing of airport infrastructure, which could be considered as granting undue advantage to airlines operating from that hub, serves as a prime example of the above challenges. This paper provides a feasibility analysis of the introduction of a system of international control of indirect subsidies – measures where the recipient is not the sole beneficiary of the aid. The analysis is conducted through the lens of the European concept of State Aid, as introduced in the international agreements between the EU and non-member States.

Keywords: EU Law, International Law, Air Transport, State Aid, Subsidies, Competition

JEL: K20, K21, K33

Katarzyna Łuczak, Piotr Łuczak, **Safety of ground handling workers**

Table of contents:

- I. Introduction
- II. Legal fundamentals of safety in ground handling
- III. Selected issues of health and safety of employees in ground handling
 - 1. Protective clothing in ground handling activities
 - 2. Dangerous and harmful factors
 - 3. Control activities in the fields of employee health and safety and aviation safety
 - 4. Traffic safety at apron
 - 5. Occupational diseases suffered by ground handling personnel
- IV. Summary

Summary: The aim of this article is to outline safety considerations relevant to ground handling workers. Attention is drawn to legal rules on safety in civil aviation as well as health and safety of work. Presented in particular are areas which are especially exposed to dangers arising during work in ground handling services.

Keywords: ground handling, safety, safety and health of work, worker, safety management system

JEL: K31, K39

Mateusz Osiecki, **Terrorist Attack on the Brussels Airport in the light of European and International Law**

Table of contents:

- I. Introduction
- II. Facts relating to the attack
- III. Terrorism – attempt at a definition and reference to the attack
- IV. International community and suppression of aerial terrorism

V. Actions taken within the European Union

VI. Final remarks

Summary: The terrorist attack on Brussels of 22 March 2016 is an event that shall for long remain in humanity's memory as a brutal assault striking not only at the Belgian community, but also Europe and the world as a whole. The purpose of this article is to analyse the attack at Zaventem International Airport from the juridical perspective. In the introduction, the facts relating to the attack are briefly presented, followed by a detailed overview of the term 'terrorism' on the basis of several legal acts, including the Penal Code of Belgium. The principal part of the text is devoted to an extensive study of international law. Treaties related to aerial terrorism are analysed. This includes the Beijing Convention which, once it enters into force, shall considerably change the aviation security system. Included in the article is also an analysis of relevant EU legislation, mainly Council Framework Decision of 13 June 2002 on combating terrorism. The paper closes with some remarks on the future of security in civil aviation.

Key words: terrorism; civil aviation; the Kingdom of Belgium; *aut dedere aut iudicare*; states' jurisdiction; extradition.

JEL: K33

Legislation and Case Law Reviews

Marian Bujnowski, **Integration of unmanned aerial vehicles with the EU civil aviation system**

Table of contents:

- I. Introduction
- II. Shaping the legal framework for drones in the European Union
- III. Functioning of unmanned aircrafts in Poland
- IV. Summary

Summary: The article concerns the integration of the unmanned aircraft system with EU civil aviation. The paper presents the basic concepts and terminology used by international organizations (such as ICAO, EASA) and in Poland. Described are elements of an unmanned air system and the possibilities of its use. The paper shows also the process of shaping the legal framework of the EU system relating to the functioning of unmanned aerial vehicles and the conditions and prospects of its implementation. The article discusses also the operation of unmanned aircraft in Poland.

Keywords: transport; civil aviation; drones; civil aviation safety; pilotless aircraft; Remotely Piloted Aircraft (RPA); Remotely Piloted Aircraft System (RPAS); Unmanned Aerial Vehicle (UAV); Unmanned Aircraft (UA); Unmanned Aircraft System (UAS).

JEL: L93, L98

Marta Burnecka-Szczepańska, **The role of the President of UOKiK in protecting air passenger rights**

Table of contents:

- I. Introduction
- II. Whose interests does the President of UOKiK uphold?

- III. Competence of the President of UOKiK regarding the protection of air passengers
- IV. Current activities of the President of UOKiK towards air carriers
 1. Preliminary remarks
 2. Inspection of airlines evaluating compliance with consumer rights carried out in 2007
 3. Study of the domestic air transport market evaluating its compliance with consumer rights carried out in 2012

V. Conclusions

Summary: The article aims to present the role of the Polish competition authority – the President of UOKiK – in protecting the rights of air passengers under Polish law. The paper discusses Polish law that enables the President of UOKiK to take action against air carriers and presents a practical approach to the issue by providing information on current activities described in reports on the inspection of airlines.

Keywords: public interest, consumer, collective consumer interests, prohibited clauses, air passengers' rights.

JEL: K29

Dagmara Kuźniar-Kwiatek, **Interpretative Guidelines concerning events giving rights to passengers under Regulation (EC) No 261/2004 of the European Parliament and of the Council establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights**

Table of Contents:

- I. Introduction
- II. Events giving rights under Regulation No 261/2004
 1. Denied boarding
 2. Cancellation
 3. Delay
 4. Upgrading and downgrading
- III. Summary

Summary: The article presents the Interpretive Guidelines of the European Commission on Regulation (EC) no 261/2004 concerning events which grant rights to air passengers on the basis of this Act. The subject-matter of the analysis focuses therefore on: denied boarding, cancellation, delays and placing a passenger in a higher or lower travel class. Such problems concern vital interests of individuals that use the services provided by air carriers, as reflected in the jurisprudence of the Court of Justice. The Guidelines relate to established jurisprudential practice and present coherent interpretation of Regulation no 261/2004. The aim of the article is to outline the interpretative guidelines of the Commission concerning issues which are most frequently raised by interested persons.

Keywords: Regulation No 261/2004, rights of airline passengers, European Commission

JEL: K23

Telesfor Marek Markiewicz, **Air traffic management and air navigation services in European Union law – selected issues**

Table of contents:

- I. Introduction
- II. Scope of the SES legislation and terminological issues
- III. Drivers of ATM/ANS provider activities
- IV. Common requirements for the provision of air navigation services
- V. Rules for the certification of air navigation service providers and designation of air traffic service providers
- VI. Charges for the use of air navigation services
- VII. Safety oversight in air traffic management and air navigation services
- VIII. Summary

Summary: In aviation law of the EU, the issue of air traffic management (ATM) and air navigation services (ANS) are included in regulations relating to the Single European Sky (SES) and those concerning the operation of the European Aviation Safety Agency (EASA). This article presents a review of selected operating regulations and economic aspects of the activities of the ATM/ANS service providers in the airspace of EU Member States and countries participating in the SES programme.

Key words: the Single European Sky; air traffic management; air navigation services; certification; navigation charges; safety oversight.

JEL: K33, L93, L98

Method of determining the catchment area of an airport and prohibition of public financing of unused airport infrastructure under EU law.

Commission Decision SA.43023 of 28 July 2016 concerning State aid granted to Lamezia Terme airport by Italy (Jadwiga Urban-Kozłowska)

Books Reviews

Małgorzata Polkowska, *Prawo kosmiczne w nowej erze działalności w kosmosie. Wybrane problemy [Space law in the new era of space activity. Chosen Problems]*, Oficyna Allerhanda: Kraków-Warszawa, 2015 (Jan Walulik)

Reports

III Nationwide Academic Conference: Consumer in the Passenger Railway Market, Łódź, 25 May 2016 r. (Marcin Kraśniewski)

Antitrust Aviation Seminar, Faculty of Management, University of Warsaw, 12 October 2016 (Mateusz Osiecki)