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Jakub Kociubiński, Agreements between Airports and Carriers in the Light of EU Competition Law

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Summary: Agreements between airports and carriers, similarly to all vertical agreements, can cause harm to the market, primarily when the balance between the undertakings concerned is disturbed and dependence emerges. In air transport, such relationships have been considered largely through the lens of State aid law, since the subsidization of airports makes its activities imputable to the State. Recourse to competition law – namely Articles 101 and 102 TFEU – should be perceived as an alternative, required in the light of the gradual withdrawal of State funding for airport operations. This paper provides an overview of the anticompetitive mechanism highlighted above, explores possibilities and challenges for the application of competition rules as well as provides de lege ferenda conclusions.

Key words: competition law, airports, airlines, vertical agreements, dominant position

JEL: K21

Sławomira Lerman, Choice of law for contracts of carriage of passengers in rail and air transport

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Summary: This paper analyses the choice of law rules for contracts of carriage of passengers under Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I). While the Rome Convention did not contain any special rules for such contracts, the Rome I Regulation adopts a restricted form of party autonomy for the carriage of passengers. The parties are restricted to choosing between the country of the passenger’s habitual residence, the carrier’s habitual residence, the carrier’s place of central administration, the place of departure or the place of destination. The inclusion of a special choice of law rule for such contracts in the Rome I Regulation resulted from the desire of a number of Member States to ensure an adequate level of passenger protection. However, the achievement of this protection goal by way of limited choice of law is doubtful.

Key words: choice of law, Rome I Regulation, contracts of carriage of passengers, private international law

JEL: K12

Dorota Ambrożuk, Time-barring of passenger claims under the contract of carriage of passengers by rail

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Summary: The contract of carriage of passengers by rail is governed by EU law, as well as national and international law, which shall apply to both national and international transport operations. This raises a question, inter alia, about the correct application of the rules on time-barring passenger claims against carriers. In principle, this is not regulated by EU law. However, EU law largely incorporates the CIV Convention, which regulates the limitation periods for claims. Part of passenger claims is directly covered by the CIV Convention; there is no doubt that the provisions of the convention should apply to them. On the other hand, a problem arises with regard to those issues governed by the CIV Convention which are modified or supplemented by the provisions of Regulation (EC) No 1371/2007, as well as with regard to claims based solely on that Regulation. Similar doubts also exist in other modes of transport, such as aviation law, where they have been the subject of several CJEU rulings. The aim of this paper is to present the above mentioned issues on the ground of rail transport and answer the question to what an extent the position developed in aviation law is adequate for rail transport. In the opinion of the Author, a direct transfer of views developed with regard to air transport should not take place because of the different way of the implementation of the international convention into EU law, and different scope of the provisions governing the limitation period in the Montreal convention and the CIV convention.

Key words: time-bar, carriage of passengers, recovery of passenger claims

JEL: K12
Daniel Dąbrowski, *Grounds for liability of a railway undertaking for bodily injury, disturbance of health or death of passengers*

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**Summary:** The liability of a railway undertaking for bodily injury, disturbance of health or death of a passenger is currently regulated in several legal acts. The EU Regulation 1371/2007 is of fundamental importance here and applies to most domestic rail passenger services as well as the international carriage of passengers if performed between the countries of the European Union. However, it applies only to services operated by carriers licensed in accordance with the provisions of EU law. Its application is questionable when the contract of carriage has been subject to the law of a third country (which is not a member of the European Union). In the case of carriage to and from third countries, which are party to the Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV), the liability of the carrier in case of death or personal injury of passengers shall be governed by those rules. The Civil Code may apply, on an exclusive basis, to those services which are not subject to the regime of Regulation 1371/2007 or to the Uniform Rules (CIV). In the case of services subject to these regimes, the provisions of the Civil Code shall apply in a complementary manner. In addition, the injured passenger or an entitled person may in such a case bring an action on the ground of tort liability in accordance with the Civil Code. However, even then the carrier shall be liable under the conditions and within the limits laid down in Regulation 1371/2007 or in the Uniform Rules (CIV).

**Key words:** railway undertaking liability; carrier liability in case of death of, or personal injury to, passengers; carriage of passengers; regulation 1371/2007, passenger rights

**JEL:** K12, K13, K15

Marcin Radwański, *Civil liability (contractual and tort) of railway carriers in the light of the experiences of the Rail Passenger Rights Ombudsman*

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Summary: The Rail Passenger Rights Ombudsman is competent to conduct out-of-court resolution of disputes between entrepreneurs operating on the railway market and passengers. The aim of the article is to present the legal aspects of contractual and tort liability regarding the issues that have been resolved by the Rail Passenger Rights Ombudsman.

Key words: Rail Passenger Rights Ombudsman, ADR, alternative dispute resolution methods, passenger rights, railway transport

JEL: J52, K12

Przemysław Kowalik, Passenger tariffs in regional railway transportation in Poland: status quo, implications for passengers, proposals of changes

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Summary: Regional railway transportation in Poland in the second decade of the 21st century is characterized by a remarkable complexity of tariff solutions. This is primarily caused by the existence of many train operators with their own tariff systems as well as ‘territorially restricted’ tariffs applied by one or more operators. The above status quo may greatly affect the decisions of passengers regarding their railway journeys. The first issue connected with those decisions results from the often complicated rules of cross-operator ticket acceptance (unilateral, bilateral, sale channel-dependent, none). Another issue lies in perceived discrimination in access to tariff information and sale of certain types of tickets, resulting from the way in which train operators’ internet sale systems operate (which, besides their sale functionality, can also be used for informational purposes). Those systems do not provide timetables and pricing information on connections partially or entirely served by other operators, even if they accept tickets issued by the given operator. A similar problem may occur even in case of pricing connections offered by a single operator. The cheapest possible tickets – even when available online – may not be offered ‘automatically’ and passengers have to select them ‘manually’ on the basis of pre-existing knowledge of pricing rules. Information about some pricing options may be available in text documents only and not implemented in sale systems. An improvement of availability of tariff information in the cases mentioned above can be achieved in two ways. The first one refers to ‘multi-operator’ connections and can be described as extending information obligations of train operators to cover all the connections for which they sell tickets. The second refers to the sometimes unavailable ‘automatic’ pricing of the cheapest tickets for
connections offered by a single operator. It consists of ‘redesigning’ the rules of construction of ‘territorially restricted’ tariffs towards their utilization – already built-in in the internet sale systems – the rules of pricing tickets for journeys on trains of various categories.

**Key words:** Railway passenger transport, railway tariffs, tariff information, timetable information

**JEL:** K23, L92, R48

Miroslaw Antonowicz, Monika Kicińska-Jezierska, Patrycja Lejk, *Satisfaction of users of railway stations – research perspective*

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**Summary:** In this article the Authors present the issue of social research as an example of processes which make it possible to measure standards based on both internal and external regulations. Knowledge accumulation following recurrent or complementary research allows an organisation to take an advisory role during legislative processes on various levels. The Authors indicate critical stages of the research methodology forming, and describe examples of satisfaction tracking and mystery shopper research which play a central role for competitiveness on contemporary markets.

**Key words:** railway station; standard; research methodology; rail passenger satisfaction; user satisfaction; quality of rail services.

**JEL:** K23, K29

Michał Beim, *Conditions of competition between taxis and Uber*

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**Summary:** Technological development leads to the blurring of divisions between traditional forms of transport, creating opportunities for the development of new services. The start of Uber services is one of the examples of the use of ICT technologies and the implementation of the principles of the
sharing economy. For public opinion, Uber services have been recognized as a direct competitor for taxis. Although the legal conditions favor taxis in urban traffic, the technological solutions have enabled Uber to build a competitive advantage. Legal frameworks, if a given country has not equated Uber with taxis, may be a factor increasing the competitiveness of taxis, especially those associated with modern applications such as MyTaxi, iTaxi or partly Taxify. The paper analyzes the legal conditions of the taxi system in Poland, pointing to potential advantage points.

Key words: taxi, Uber, sharing economy, transport policy, legal frameworks
JEL: R48, D43, D72, K00, L11

Arnold Rabiega, The legal instruments stimulating the development of electromobility and the infrastructure of alternative fuels

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Summary: This article provides a synthesis and evaluation of the most important legal tools which stimulate the development of alternatives fuels infrastructure. The Author analyses legal acts which support the development of the alternative fuel based transportation sector, with particular emphasis on the new electromobility and alternative fuels law and the bio-components and liquid bio-fuels law. The analysis revealed regulations which still hold back the promotion of electromobility and alternative fuels. In the Author’s opinion, applied legal solutions eliminate the most potent barriers to the development of this new sector, although they still seem insufficient with regards to the goal set out in governmental documents.

Key words: electromobility, alternative fuels
JEL: K23, K32, L90

LEGISLATION REVIEWS
Ignacy Góra, Karol Kłosowski, Recast of Regulation (EC) 1371/2007 on rail passengers’ rights and obligations – review of the most important proposed amendments

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Summary: This article covers the proposed changes to the key legal act on the protection of rail passenger rights in the European Union – Regulation (EC) 1371/2007 of the European Parliament and of the Council on rail passengers’ rights and obligations. In 2017, the European Commission initiated a legislative process aimed at adapting the provisions of this Regulation to current economic, social and legal realities. The aim of this article is to summarize the most important changes planned in the area of the responsibility of railway undertakings, the rights of persons with disabilities, the scope of application of the provisions of the Regulation and the availability of tickets.

Key words: Regulation (EC) 1371/2007, passenger rights, European Union, European Parliament, European Commission, passenger transport, railway operator, railway infrastructure manager

Michał Zięba, The IVth railway package – new important implementing regulations of the European Commission

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Summary: The article presents selected aspects related to the application of the technical pillar of the fourth railway package. These aspects are precisely stipulated in the two implementing regulations of the European Commission issued on the basis of Directive 2016/798 on railway safety and Directive 2016/797 on the interoperability of the rail system. The article presents the outline of the rules related to the use of the application of the One Stop Shop, the scope of the application of a single safety certificate, language issues of the application and documentation submitted to the NSA or EUAR, as well as deadlines for the processing of applications for issuing a single safety certificate and authorization for railway vehicles.

Key words: One-stop-shop; IV railway package; single safety certificate; authorization for placing in service of railway vehicle; Directive 2016/797 on the interoperability of the rail system; Directive 2016/798 on railway safety; European Railway Agency

Anna Kutyłowska, The Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services – step in making the rail transport sector more competitive?

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Summary: The importance of providing railway undertakings with access to service facilities was indicated during the work on Directive 2012/34/EU of the European Parliament and of the Council
of 21 November 2012 establishing a Single European Railway Area (recast) (Journal of Laws EU L 343, 14.12.2012, p. 32, as amended). At that time, it was emphasized that in many cases the lack of access to service facilities on non-discriminatory terms for new participants leads to high barriers to market entry. The adoption of Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services (Journal of Laws EU L 307, 21.11.2017, p. 1) is the continuation of the aforementioned tendency. The purpose of this Regulation is to ensure non-discriminatory access to service facilities and rail-related services for all applicants, in particular by ensuring the transparency on conditions for access to service facilities and rail related services and information on charges.

Key words: commission implementing regulation (EU) 2017/2177, access to service facilities, service facility, railway undertakings, service facility description, coordination procedure

Mateusz Osiecki, Drones – future of aviation and legislative challenge. Some remarks on new EU legislation concerning unmanned aircrafts

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Summary: The dynamic development of civil aviation in recent years is symbolised by the growing popularity of unmanned aircrafts commonly known as ‘drones’. A sudden increase of interest in these devices, also among European Union citizens, became a trigger for the introduction of safety regulations concerning the design, production, maintenance and operations of drones. After long debates and preparations, the European Parliament and the Council have finally adopted a relevant legal act, namely Regulation 2018/1139 of 4th July 2018 that entered into force on 11th September 2018. This article is an attempt to assess the new legal measures against the needs of the drone market. This includes some statistics depicting the impact of the unmanned aircraft market on the development of civil aviation. The core of the paper is an overview of the newly adopted legislation on the safety of civil aviation in the European Union as well as a critical analysis of recently repealed provisions.

Key words: unmanned aircraft, civil aviation, European Union, safety, development

BOOK REVIEW

Mirosław Pawelczyk (Ed.), Rynek kolejowy. Współczesne prawne i sektorowe uwarunkowania ochrony konkurencji i konsumenta (The railway sector. Contemporary legal and sectorial conditions of competition and consumers protection), Wydawnictwo Ius Publicum, Warszawa 2018, pp. 394 (Filip Elżanowski)

REPORTS

Report from the conference The consumer on the market for rail passenger transport services, Łódź, 9 May 2018