

IN-DEPTH

Aviation Law

EDITION 13

Contributing editor

Sean Gates

Gates Aviation Ltd



LEXOLOGY

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In-Depth: Aviation Law (formerly The Aviation Law Review) aims to serve as a frontline resource for practitioners and other stakeholders seeking to navigate the legal and regulatory regimes governing the global aviation industry. With a focus on recent developments, it covers the key aspects of the legal framework in each jurisdiction as well as the related commercial and practical implications.

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Editor's Preface

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In-Depth: Aviation Law continues to be among the most successful publications of Law Business Research. Its online version now reaches an ever broader readership across the aviation industry – not only lawyers but also the many professionals engaged in operational and management roles affected by the expanding web of laws and regulations. The increasing complexity and, at times, inconsistency of these rules continue to offer fertile ground for analysis and debate. *In-Depth: Aviation Law* remains an authoritative global reference point, and we take justified pride in its continuing contribution to professional understanding of this vital field.

This year I welcome new contributions from Canada, Portugal and the United States, and extend my sincere thanks to all contributors for their dedication and insight. Their generosity in sharing experience ensures that this publication remains the leading annual review of aviation law.

Readers of earlier editions will be familiar with the long-standing controversies surrounding the interpretation of the EU Flight Compensation Regulation (Regulation (EC) No. 261/2004 (Regulation 261)). The past year has brought an unusual concentration of both judicial and legislative activity, with some surprising successes for airlines, though against the backdrop of a plainly hostile Parliament intent on advancing its consumerist reputation at no cost to themselves while abrogating the need to ensure the continuing viability of European aviation and, inter alia, its vital contribution to regional connectivity.

In January 2024, the Court of Justice of the European Union (CJEU) in Case C-474/22, *Laudamotion GmbH v. Flightright* confirmed that a passenger who declines to travel after being notified of a long delay, and who reaches their destination within three hours by their own arrangement, is not entitled to compensation. The companion ruling in Case C-54/23, *Laudamotion & Ryanair* reaffirmed that passengers must still comply with check-in and presentation requirements. In June 2024, Case C-385/23, *Matkustaja A v. Finnair Oyj* accepted that a hidden design defect in an aircraft which caused the failure, in this case, of a fuel gauge, could amount to an 'extraordinary circumstance' even if the cause was identified after the cancellation. More recently, in January 2025, the Court held in Case C-516/23, *NW & YS v. Qatar Airways* and Case C-642/23 that promotional-fare passengers fall within the Regulation's scope and that refunds must be made promptly unless vouchers are expressly accepted. In March 2025 (ECLI:EU:C:2025:139), the CJEU addressed proof issues, confirming that a confirmed reservation or boarding pass is sufficient to establish a passenger's standing even where travel forms part of a package or reduced-fare scheme.

The Commission's revised Interpretative Guidelines, issued in July 2024 and adopted in September 2024, consolidate these decisions and introduce new guidance on mass-disruption management. Although non-binding, they are now the key interpretative benchmark for enforcement bodies and courts.

At the policy level, 2025 marked a decisive step toward reform of Regulation 261. The Council of the EU reached political agreement in June 2025, proposing higher delay thresholds for compensation and a clarified definition of 'extraordinary circumstances'. The European Parliament's scrutiny is ongoing, with the Committee on Transport and Tourism voting in June 2025 for a comprehensive package sometimes described as the '30 new passenger rights'. These include stronger rerouting and information rights, limits on tarmac delays, and, under a separate amendment adopted 24 June 2025, a ban on airlines charging passengers for two small pieces of carry-on baggage (one overhead bag ≤ 7 kg and one under-seat item $40 \times 30 \times 15$ cm). These proposals illustrate a continued shift toward consumer protection at a time when carriers face unprecedented cost and environmental pressures.

In this context, the European Regions Airline Association (ERA) submitted a detailed position paper to the Commission and EU legislators in October 2025, accompanied by a press release on 13 October 2025. The ERA welcomed the objective of greater legal certainty but warned that the draft reforms risked worsening existing imbalances between regional and major carriers. Its submission urged legislators to:

1. raise compensation thresholds to ensure proportionality;
2. preserve operational flexibility for rerouting and accommodation in low-frequency markets;
3. codify a comprehensive, exhaustive list of extraordinary circumstances;
4. improve coordination among national enforcement bodies; and
5. recognise the cumulative administrative cost of compliance, estimated at over €1.5 billion annually.

The submission concluded that, without these adjustments, Regulation 261 could undermine regional connectivity and erode the economic and environmental efficiency of right-sized operations.

The United Kingdom, applying its retained version of Regulation 261, has likewise clarified important aspects. In July 2024, the Supreme Court in *Lipton v. BA CityFlyer* [2024] UKSC 24 ruled that pilot illness is not an extraordinary circumstance, aligning UK law with Wallentin-Hermann and TAP Portugal. The Court's measured criticism of *Sturgeon v. Condor Flugdienst* (C-402/07) revealed disagreement with the ECJ precedents but confirmed that established precedent will generally be followed regardless of the illogical and perverse nature of the precedent.

Beyond passenger rights, 2025 brought a landmark ruling in aviation insurance. In June 2025, the Commercial Court in London, in the Russian Aircraft Lessor Policy Claims, held that the Russian government's 2022 export ban and re-registration of foreign-leased aircraft constituted insured losses under standard hull-war policies, which was a widely anticipated outcome. The Court rejected sanctions defences, confirmed insurers' duty to indemnify, and thereby gave rise to insurers' subrogation rights against the Russian Federation to the extent of their liability under the applicable policies. Since the judge refused permission to appeal, the decision appeared to resolve years of uncertainty over multi-billion-dollar exposures and provides lasting guidance on the interpretation of war-risk and confiscation clauses. The amounts payable under the war risk policies are significantly lower than those

under typical all-risk hull insurance, and there is likely to be a shortfall for lessors, which are also seeking to recover the balance of their losses from reinsurers of the Russian insurers of the operators concerned. However, most of the war risk insurers have applied to the Court of Appeal for leave to appeal certain aspects of the first instance judgment. They have not sought to appeal the causation issue, however, so all risk insurers are certainly off the hook for these claims. The appeals challenge such matters as the finding of the date of loss, which if varied from the date of commencement of proceedings could relieve insurers of all liability, so there is still much to play for.

Internationally, the continuing impasse over Russia's unlawful re-registration of leased aircraft remains a sobering illustration of the limits of global governance. Despite a clear breach of the Chicago Convention, the ICAO Council has yet to act under Articles 84–88, reflecting persistent geopolitical division and undermining confidence in multilateral oversight.

Environmental regulation has advanced in parallel. The ReFuelEU Aviation Regulation, entering into force in 2025, mandates a minimum 2 per cent blend of sustainable aviation fuel (SAF) for departures from EU airports, rising to 6 per cent by 2030 and 70 per cent by 2050. Similar requirements are being introduced in the United Kingdom. These measures, welcomed for their environmental intent, will significantly influence fleet operations, fuel contracting and emissions-reporting compliance. The modest amount of SAF fuel available reflects the availability of SAF worldwide, and some observers feel that, since SAF emits CO₂ when used, it is something of a sticking plaster on an amputation. One can only hope that the capacity of electric aircraft will scale up. Regrettably, government and industry seem perversely reluctant to explore hybrid air vehicles, which offer massive carbon savings and numerous other advantages, including the ability to land 'on a dime' rather than at an airport.

As this edition goes to press, the outcome of the EU 261 reform process and the implementation of SAF mandates will shape the next phase of aviation regulation, and I can continue to hope for my first flight on an airship. The sector continues to operate amid intensifying legal complexity, regulatory activism and geopolitical risk. Through these challenges, *In-Depth: Aviation Law* remains a forum for informed analysis and principled debate. My gratitude extends to all contributors – both established and new – whose scholarship and dedication ensure that this publication remains the definitive annual reference for practitioners, regulators and policymakers in aviation law.



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The Utility of Experts in Litigation and Dispute Resolution

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Summary

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Over a lifetime of litigation, I have, as a lawyer, had multiple experiences with experts, some positive and at least one in particular negative. On the positive side, brilliant, focused and charismatic experts were core to success in cases involving the criminal prosecution of a pilot following a major accident. The prosecution tendered no expert evidence after the expert I had appointed convincingly demonstrated to the judge, through skill and charm, the weaknesses in the prosecution's case. The case was heard in the court of a female judge in Portugal, and the expert was a highly experienced pilot with considerable Gallic charm. The presence of the same expert persuaded the lawyers defending my clients' civil claim to settle when it became apparent that his evidence would likely destroy their contention that the accident was caused by pilot error. In another case, my expert in a claim involving the destruction by fire of an aircraft parked at a private airfield was convincing in his evidence, but the arbitrator dismissed it for what I remain convinced were manifestly inadequate reasons, indicating in his decision that he disliked the somewhat pedagogic manner in which our expert gave his evidence, and substituted his own opinion of the cause of the fire which destroyed the insured aircraft. I stress that I have endeavoured to eliminate sour grapes from my narrative and mention this as a case in which, nowadays, I might have sought resolution by the agreed appointment of an expert acting on his own rather than in the form of an agreed arbitration. These were both cases in which I learned to take the expert's personality as well as their expertise into account when choosing an expert witness. Recent decisions in aviation, as well as in other areas of law, have highlighted changes in the use of experts across multiple jurisdictions, which merit attention and consideration. In the interests of full disclosure, I must mention that I have stepped back from personally leading litigation and have established an organisation focussing on the identification and provision of experts in various aspects of aviation litigation.

Expert evidence occupies a central role in modern dispute resolution. Courts, arbitral tribunals, and parties themselves are increasingly relying on experts to clarify technical issues that exceed the knowledge of judges or advocates. Whether the dispute concerns aviation safety, financial risk, or the interpretation of contractual mechanisms, the expert can provide both factual illumination and analytical frameworks. However, the weight and admissibility of expert evidence vary depending on its quality, impartiality, and relevance. Courts have consistently warned against the dangers of partisan or outdated expertise, while simultaneously affirming the indispensable role of experts when properly selected.

Recent jurisprudence highlights two key themes: first, that expert evidence must meet stringent admissibility requirements; and second, that expert determination, as a dispute resolution mechanism, offers distinct advantages but also limitations when compared to litigation and arbitration. The following discussion examines both points, drawing on recent decisions from Canada and the United Kingdom.

In *R v. Mohan*, the Supreme Court of Canada articulated four threshold requirements for the admission of expert evidence: logical relevance, necessity in assisting the trier of fact, absence of an exclusionary rule, and the presence of a properly qualified expert willing and able to provide impartial, independent, and unbiased evidence.^[1] These requirements were affirmed and refined in *White Burgess Langille Inman v. Abbott and Haliburton Co*, where the Court emphasised that the judge must act as gatekeeper, balancing the benefits of

admitting expert testimony against the risks of confusion, delay, or undue prejudice.^[2] The Ontario Court of Appeal later confirmed this two-stage analysis in *R v. Abbey*.^[3]

Judges have repeatedly stressed the risks associated with expert evidence. In *O'Brien v. Maxar Technologies Inc.*, Justice Akbarali cited *White Burgess* in underscoring that experts may lead the trier of fact to defer uncritically to their views, rely on unproven material not subject to cross-examination, or cause an inordinate expenditure of time and money.^[4]

¹ These concerns place a heavy burden on parties to ensure that only appropriately qualified and current experts are retained.

The Ontario Court of Appeal's decision in *S and others v. Ukraine International Airlines* concerned the tragic downing of flight PS752 over Tehran on 8 January 2020. The Court upheld the trial judge's finding that Ukraine International Airlines (UIA) was negligent in permitting the flight to depart, thereby incurring unlimited liability under the 1999 Montreal Convention for the deaths of 176 people on board.^[5]

Central to the outcome was the role of expert evidence. Two of the experts supporting the plaintiffs were sourced from Gates Aviation. John Edwards was qualified at trial by the judge on aviation security threats and risk assessments, and Captain Jo Gillespie was qualified in aviation safety management systems and the conduct of safety risk assessments. Both provided testimony of such clarity and independence that the Court cited their analyses substantively in its judgment, finding that UIA had breached its duty of care.

By contrast, the defendant airline's lawyers relied on an expert, whom the trial judge found, upon applying the Mohan test, had outdated expertise, particularly as he lacked experience with the International Civil Aviation Organisation's document 10084 which is a key standard developed after the downing of Malaysia Airlines flight MH17 in 2014.^[6] The Court also noted that his mischaracterisation of opposing experts' testimony, failure to acknowledge errors, and selective omission of evidence indicated advocacy rather than impartial assistance.^[7] Consequently, his evidence failed both the qualification and gatekeeping stages of admissibility.

This decision highlights two critical lessons. First, the credibility and currency of an expert are decisive. Second, an expert's ability to provide impartial, unbiased assistance rather than partisan advocacy will affect judicial reliance. In complex technical disputes, such as aviation negligence cases, the integrity of expert evidence can determine the outcome of the case.

A different aspect of the utility of experts arises in *Dandara South East Ltd v. Medway Preservation Ltd & another*, where the High Court considered the effect of an expert determination clause within a land development agreement.^[8] The key question was whether such a clause could be separable from the underlying contract in the same way as an arbitration clause, thereby surviving termination of the main agreement.

The contract contained an expansive dispute resolution provision (clause 28), stipulating that any dispute under or in connection with the contract was to be referred to expert determination. The defendants argued that this required all disputes, including whether the contract had been validly terminated, to be resolved by an expert, and sought a stay of court proceedings. The Court held that clause 28 was indeed an all-embracing provision, mirroring the breadth of disputes typically subject to arbitration clauses. Drawing an analogy with section 7 of the Arbitration Act 1996, which establishes the

separability of arbitration clauses,^[9] the Court concluded that there was no reason in principle why an expert determination clause could not also be separable. While unusual in scope, the provision created what the House of Lords in *Fiona Trust v. Privalov* described as a 'one-stop' mechanism for dispute resolution.^[10] Importantly, the Court rejected the claimant's argument that expert determination was unsuitable for disputes concerning termination and breach, holding that the parties' objective intention was for such disputes to fall within clause 28. Accordingly, proceedings were stayed in favour of expert determination. This case illustrates the courts' willingness to construe expert determination clauses broadly, recognising their potential to provide finality and efficiency in commercial contracts. It also establishes, for the first time, that such clauses may be separable, which is a development of significant importance for commercial drafting. I am bound to say that in my experience, much cost could have been avoided in aviation cases by the use of experts in a determinative role, given that in this area, as with many others, the need arises at considerable expense to educate the lawyers and the judge, where expert support is limited to giving evidence. Of course, I have to accept that that might have run counter to the interests of my own firm had the practice existed at that time!

In *WH Holdings Ltd v. E20 Stadium LLP*, the High Court considered whether an expert determination under a concession agreement relating to the Queen Elizabeth Park Stadium could be set aside for manifest error.^[11] The agreement provided that disputes concerning gain-sharing provisions would be referred to expert determination, with the expert's decision binding absent manifest error. The dispute arose when certain West Ham United Football Club shareholders entered into a put-and-call option arrangement. E20 argued that this triggered the gain-sharing clause, and the appointed expert agreed, ordering WH Holdings to pay £3.6 million. WH Holdings challenged the decision, alleging manifest error.

The Court reaffirmed that parties who agree to be bound by expert determination will generally be held to their bargain, absent fraud, bad faith, or the expert exceeding their mandate. The doctrine of manifest error provides a narrow escape, typically limited to obvious and indisputable mistakes. The Court drew on *Veba Oil Supply & Trading GmbH v. Petrotrade Inc*, which defined manifest error as an oversight 'so obvious and obviously capable of affecting the determination as to admit no difference of opinion.'^[12] In this case, the Court found that the expert had misapplied defined contractual terms, conflating 'or' with 'and' and erroneously blending multiple transactions. This produced a calculation that lacked a basis in the contract. The Court concluded that the mistake was indeed manifest and therefore set aside the determination. The decision is significant because challenges to expert determinations rarely succeed. It underscores that while expert determination offers finality, it is not immune to correction where the error is plain and fundamental. At the same time, it confirms the limited scope of judicial review: the court does not rehear the merits. It intervenes only in cases of manifest error, fraud, or excess of jurisdiction.

These cases illustrate the diverse roles experts play in dispute resolution. A key distinction lies between the use of expert evidence in litigation or arbitration and the use of expert determination as a contractual dispute resolution mechanism. In litigation and arbitration, experts provide evidence to assist the tribunal in reaching its own decision. Their role is advisory, and their influence depends on the court's assessment of admissibility, impartiality, and reliability. The ultimate decision-making power rests with the judge or arbitrator. This ensures judicial oversight but may prolong proceedings, as competing experts must be cross-examined and their methodologies comprehended and scrutinised.^[13]

By contrast, in expert determination, the expert acts not as a witness but as the decision-maker. The parties effectively contract out of adjudication by courts or tribunals, appointing a technical specialist whose determination is binding (subject to fraud, excess of jurisdiction, or manifest error).^[14] This offers speed, cost-effectiveness, and subject-matter expertise but carries risks: the absence of appeal or extensive review means that an erroneous decision may stand unless it amounts to manifest error. As *WH Holdings v. E20* demonstrates, judicial intervention is rare and limited.^[15]

Arbitration occupies an intermediate position. Like litigation, arbitrators adjudicate disputes and weigh expert testimony. Unlike litigation, arbitration affords greater flexibility in procedure and confidentiality. Importantly, arbitration clauses benefit from statutory separability under section 7 of the Arbitration Act 1996. Following *Dandara*, it appears that expert determination clauses may also enjoy separability where broadly drafted, thereby enhancing their resilience against termination challenges.^[16]

The comparative utility of each mechanism may be summarised as follows:

1. Litigation ensures oversight and precedent but may be costly, adversarial, and slow.
2. Arbitration combines adjudication with procedural flexibility and international enforceability but still entails significant costs.
3. Expert determination offers speed, expertise, and finality, but it sacrifices appellate review and may be unsuitable for disputes that require in-depth legal analysis.

Parties drafting dispute resolution clauses must therefore weigh these trade-offs. Where commercial certainty, cost saving, speed and technical accuracy are paramount, expert determination may be a viable option. Where broader issues of law, fairness, or multi-jurisdictional enforcement arise, arbitration or litigation may be preferable, whilst bearing in mind the vicissitudes of judges and arbitrators and the opportunities for appeal and delay, which can incentivise the party in the right to settle contrary to the justice of the case and potentially to the benefit of the party with the deepest pockets.

The utility of experts in dispute resolution is multifaceted. In litigation and arbitration, experts are essential for illuminating complex issues but must satisfy strict admissibility standards, as the *S v. UIA* decision demonstrates. Within contractual frameworks, expert determination clauses can provide finality and efficiency, as confirmed in *Dandara* and *WH Holdings*. The recent jurisprudence signals three broader lessons. First, courts will rigorously police experts' qualifications, impartiality, and methodology. Second, parties drafting contracts must carefully consider the scope and separability of expert determination clauses. Third, while expert determination can provide swift resolution, it comes at the cost of limited review, with manifest error representing one of the few avenues for challenge.

Ultimately, the choice between litigation, arbitration, and expert determination reflects a balance between certainty, flexibility, cost, and oversight. Experts remain indispensable across all three, but their role shifts from assisting adjudicators to acting as adjudicators themselves. This flexibility ensures that expertise remains central to the fair and efficient resolution of modern disputes, and the lessons these cases highlight, which I have learned in my own practice, illuminate the importance of carefully selecting well-qualified, yet charismatic, experts.

Endnotes

- 1 *R v. Mohan* [1994] 2 SCR 9 (SCC). [^ Back to section](#)
- 2 *White Burgess Langille Inman v. Abbott and Haliburton Co* 2015 SCC 23, [2015] 2 SCR 182. [^ Back to section](#)
- 3 *R v. Abbey* 2017 ONCA 640, 140 OR (3d) 40. [^ Back to section](#)
- 4 *O'Brien v. Maxar Technologies Inc* 2022 ONSC 1572. [^ Back to section](#)
- 5 *S v. Ukraine International Airlines* (decision of J T Akbarali J, Ontario Superior Court of Justice, 2023). [^ Back to section](#)
- 6 *Ibid.* [123]. [^ Back to section](#)
- 7 *Ibid.* [128]–[129]. [^ Back to section](#)
- 8 *Dandara South East Ltd v. Medway Preservation Ltd & another* [2024] EWHC 2318 (Ch). [^ Back to section](#)
- 9 Arbitration Act 1996, s 7. [^ Back to section](#)
- 10 *Fiona Trust & Holding Corporation v. Privalov* [2007] UKHL 40, [2007] Bus LR 1719. [^ Back to section](#)
- 11 *WH Holdings Ltd v. E20 Stadium LLP* [2023] EWHC (Comm). [^ Back to section](#)
- 12 *Veba Oil Supply & Trading GmbH v. Petrotrade Inc* [2002] 1 All ER 703 (CA). [^ Back to section](#)
- 13 *White Burgess* (note 2) [16]–[19]. [^ Back to section](#)
- 14 *Dandara* (note 8). [^ Back to section](#)
- 15 *WH Holdings* (note 11). [^ Back to section](#)
- 16 *Dandara* (note 8). [^ Back to section](#)



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Grounded but Not Forgotten: Using Frozen Russian Assets to Pay for Aviation and other Losses

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Summary

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The slow walking by states to provide timely and effective support to Ukraine, the never-ending debate about use of Russian state assets seized in various jurisdictions to compensate the victims of Russia's unjustifiable assault on Ukraine and the collateral damage inflicted on other victims are the source of much frustration, even anger, at the display of pusillanimity of the states concerned and of the interminable ability of academic lawyers to argue that any infinitesimal risk in the way of action must be avoided at all costs. Meanwhile, Russia continues in its genocidal assault, stealing children, torturing not just soldiers but non-combatants, and seeking to eradicate Ukraine and its citizens from the map of the world. It is argued, on the one hand, that seizing and disbursing the assets might be in violation of international law and might lead to litigation by the Russian state to recover those assets or compensation for them, which might result in an award of compensation, which in turn might be for such a sum as would beggar the respondents. It is also suggested that seizure might damage the faith of the international community in the sanctity of sovereign immunity, lead to a loss of faith in the global financial system and, in particular, since most of the assets are held there, distrust of Europe as a financial centre to be counted upon. There is a precedent for such seizure in comparatively recent history, both in Germany and Iraq, and in the scales of justice, it is hard to see how the risk of loss of faith should weigh more heavily than the reality of an ongoing genocide. However, what began as a sanctions regime has evolved into a strategic opportunity for Ukraine, allied states, companies, and private individuals to seek reparations through legal means. With over US\$300 billion in Russian sovereign assets immobilised globally, including more than €200 billion held by Euroclear in Belgium, claimants are uniquely positioned to convert these frozen funds into enforceable compensation for war-related damages.

In parallel, Western governments have seized or frozen billions in assets linked to oligarchs and politically exposed persons, which provide additional channels for restitution. The European Parliamentary Research Service (EPRS) study, EPRS_STU(2024)759602_EN (authored by Philippa Webb), offers a rigorous legal mapping of options for confiscating Russian state assets to support Ukraine's reconstruction. Meanwhile, policy debate in the European Union has advanced a 'reparations-loan' model similar to that advocated by Professor Webb as having a low risk of adverse consequences under which frozen Russian reserves could be held as security against loans to Ukraine of an equivalent amount. The legal commentary of Verfassungsblog highlights the key conceptual distinction in the 'freeze to seize' debate: frozen Russian state assets remain nominally owned by Russia but are 'immobilised' and subject to possible conversion into compensation for Ukraine. According to Verfassungsblog, the legal question now centres on whether the assets and the interest they generate can be directed toward the victims of Russia's aggression.

The rights of war-risk insurers, aviation sector actors, and victims of MH17 intersect with this evolving architecture of frozen assets. Insurers who have paid out claims for aircraft losses, force-majeure expropriations or grounded fleets can invoke their right of subrogation and pursue recovery from the responsible state or its enablers. The 2025 High Court ruling in *AerCap & Others v War-Risk Insurers* [2025] EWHC 1430 (Comm) (albeit now the subject of applications to the Court of Appeal for leave to appeal in respect of certain aspects of the judgment at first instance) established that lessors and insurers could obtain domestic judgments recognising that aircraft stranded in Russia were lost due to an insured peril, and that sanctions defences did not preclude recovery. This judgment, if it stands, creates a tangible enforcement link: once a monetary liability is established,

claimants (e.g., insurers, lessors) can seek to execute against assets held by Russia or by affiliated persons.

International law provides the underpinning: under the International Law Commission's Articles on State Responsibility, a state responsible for an internationally wrongful act is obliged to make full reparation. Russia's repeated violations of Ukrainian airspace, attacks on civilian aviation infrastructure, and its involvement in the MH17 tragedy satisfy the threshold for internationally wrongful acts. The MH17 shoot-down, in particular, offers a precedent for firm attribution. In November 2022, the Hague District Court convicted three individuals in absentia for their roles in that civilian aviation disaster, supporting claims of state responsibility. Insurers of the crashed aircraft and victims' families may therefore assert that this liability ought to translate into compensation drawn from Russian (or Russian-linked) assets.

The historical precedent of post-World War II (WWII) asset seizures adds weight to the current design of seizure and execution mechanisms. After Germany's defeat, the Allied powers engaged in large-scale confiscation and control of German assets abroad (such as via Project Safehaven and related operations) to prevent the resurgence of the German war machine and to facilitate reparations to victim states and individuals. For example, US legislation documented that among the US\$198 million in German assets located in the US and seized during WWII were bank accounts, trusts, securities of Holocaust victims. This history illustrates that the mobilisation of a defeated state's assets to fund reparations is not without precedent.

Turning now to the practical steps for insurers and victims: first, claimants must secure a binding judgment or arbitral award that clearly quantifies loss and attributes liability to Russia (or another responsible state). Second, they must identify Russian state or oligarch assets in jurisdictions where immunity is limited and where those assets are held in a commercial guise rather than as pure sovereign reserves. Third, they must seek freezing orders or preventative injunctions to block the dissipation of those assets. Fourth, they should engage with the frozen-asset frameworks (e.g., via national legislation or EU compensation mechanisms) to ensure their claims are recognised as eligible for distribution. As *Verfassungsblog* observes, the legal infrastructure for asset conversion remains underdeveloped, but the shift toward using frozen Russian state assets as reparations funds could provide the mechanism for payment.

Enforcement against third-party enabling states – such as Belarus (which has allowed missile and drone launches), Iran (which has supplied Shahed drones), and China (whose supply chains of dual-use components support the Russian military) – would, particularly against China, expand the asset pool available to claimants. Chinese Foreign Minister Wang Yi's July 2025 public remark to European diplomats that 'China cannot afford for Russia to lose its war in Ukraine' underscores Beijing's tacit alignment made all the more evident from the identification of Chinese parts in Russian military equipment, enhancing the possibility for Chinese commercial assets to be treated as non-sovereign and thereby attachable. Indeed, since all Chinese citizens, including corporations, are subject to the all-embracing suzerainty of the Chinese Communist Party, one may speculate that Chinese state assets might also be susceptible to claims, though the political dynamics displayed by European states and the UK are likely to make any such approach untenable. Victims may nevertheless consider claims not only against Russia, but also against Chinese commerce, Belarusian infrastructure, and Iranian weapons-supply channels.

In summary, the intersection of aviation sector losses, insurance subrogation rights, victims' compensatory needs, and the unprecedented scale of frozen Russian state assets has opened a window of legal opportunity. War-risk insurers, aviation lessors, and victims of MH17 are well placed to assert claims and secure recovery from these assets – provided they act decisively, secure judgments, trace and freeze assets, and integrate into emerging compensation mechanisms. As the legal and financial architecture evolves, the historical precedents of asset seizure and the current 'freeze to seize' debate indicate that what was once symbolic may now become materially enforceable. Grounded but not forgotten: those harmed by the aggression in the air may finally see compensation delivered from the very assets that Russia sought to hide.

References

Shaw, R. & Starosvit, S., *Making Russia Pay: Obtaining Compensation for Russia's Invasion of Ukraine in American Courts* (2023).

European Parliamentary Research Service (EPRS), Philippa Webb, *Options for Using Frozen Russian Assets for Ukraine's Reconstruction*, Study PE 759.602, March 2024.

International Law Commission (ILC), *Articles on Responsibility of States for Internationally Wrongful Acts*, 2001.

International Court of Justice (ICJ), *Ukraine v. Russian Federation*, Order on Provisional Measures, March 2022.

European Court of Human Rights (ECHR), *Ukraine v. Russia: Inter-State Applications*, 2022–2025.

Mr Justice Butcher, *AerCap & Others v. War-Risk Insurers* [2025] EWHC 1430 (Comm).

The Hague District Court, Judgment in MH17 Case, 17 November 2022.

Joint Investigation Team (JIT), *MH17 Investigation Findings*, 2019–2023.

Verfassungsblog, *Frozen Russian State Assets – The Key to Enforcing the Largest Financial Penalty in European History*, 2025.

Lansing Institute, *China's Declared Neutrality vs. De Facto Involvement in the Russia-Ukraine War*, 28 April 2025.

Wang Yi, remarks to European diplomats, reported in *South China Morning Post* and *Kyiv Independent*, July 2025.

Conflict Armament Research (CAR), *Western Components in Iranian-Made Drones Used by Russia*, December 2022.

Institute for Science and International Security (ISIS), *Iranian Drones in Ukraine Contain Western-Brand Components*, October 2022.

Financial Times, *Germany's Merz backs using frozen Russian assets for Ukraine*, 17 October 2025.

Reuters, *Ukraine could use reparations loan to buy weapons outside Europe*, 17 October 2025.

US Congressional Records, Seizure of German Assets in the United States during and after WWII, 1946.



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Introduction

Austria is a central European landlocked country with a population of around 9 million inhabitants and has been a member of the European Community, the predecessor of the European Union, since 1995. Following the enlargement of the European Union in 2004 and 2007, Austria is now situated in the centre of the Union and constitutes the link to its neighbouring countries in the east. Germany is its most important trading partner by far; there are close economic, legal and social connections, not least because of the common language. However, it must be considered that there are substantial differences in their judicial practice, especially regarding the jurisdiction in aviation law, despite the partial applicability of European law.

Domestic passenger and goods transport forms only a minor part of the aviation sector; nevertheless, it is of particular significance owing to its close connection to Austria's neighbouring countries and other countries of the European Union. Furthermore, Vienna International Airport (VIE) serves as an important hub to the Middle East. Austria has six commercial airports with steadily increasing traffic figures, which are located in Vienna, Salzburg, Innsbruck, Graz, Linz and Klagenfurt. The largest and most important airport by far is the VIE, with 29.5 million passengers and 245,009 tonnes of cargo volume (air cargo and trucking) in 2023. It is situated 16km south-east of Vienna and can be reached in 16 minutes by the City Airport Train, which was put into service in 2003. In addition, the Slovakian capital Bratislava is only 49km away and can be reached easily by public transport. Finally, according to various statistics, VIE has one of the best punctuality records of airports in Europe, and is part of the leading group worldwide.^[1]

The best-known airline and former flag carrier is Austrian Airlines, which has a fleet of 68 aircraft and put two Boeing 787-9s (Dreamliners) into operation in spring 2024 to renew its long-haul fleet. It is a member of Star Alliance and a subsidiary of the German Lufthansa Group. Formally, EasyJet Europe is Austria's largest airline, based in Vienna and with a fleet of currently 136 aircraft registered in Austria. In addition to various economic considerations, this move also shows that the Austrian aviation authority (Austro Control) is working effectively and thus attracting various companies to Austria. Austrian registration offers an ideal combination of legal certainty, efficiency, international reputation, and EU advantages, making it very attractive for many airlines and leasing companies. In this context it should be noted, that most EasyJet Europe flights even do not involve Austrian airports. The company's main areas of operation are France, Italy, Spain, Germany, the Netherlands and Portugal.

The Austrian Aviation Act (LFG)^[2] is the central statutory provision at national level. Numerous other statutes and ordinances supplement this legal regime. In addition, Austria is a signatory to all principal international agreements in the aviation sector, such as the Chicago Convention (ratified on 26 September 1948), the Tokyo Convention (ratified on 8 May 1974) and the Montreal Convention (ratified on 28 June 2004). Austria is not party to the Rome Convention, the Geneva Convention or the Cape Town Convention. All European legal provisions are applicable because Austria is a member of the European Union, and the primacy of application of EU law is guaranteed. However, directives, in contrast to regulations, must be implemented by national law and, therefore, are not self-executing.

Year in review

The Austrian courts rendered a variety of significant decisions in the past year regarding the Air Passenger Rights Regulation 261/2004. As the trend of recent years has already shown, the decisions of the courts can mainly be characterised as rather consumer-friendly.

The Schwechat District Court, in line with its court of appeal, the Korneuburg Regional Court, regularly states that the mere invocation of traffic restrictions that have been imposed by the aviation authority does not exempt the airline from the obligation to pay compensation in accordance with the Air Passenger Rights Regulation.

Rather, the airline must prove why the airspace restriction occurred, as the cause is decisive in determining whether an extraordinary circumstance is given. This is not reasonable as the official traffic restriction itself is not subject to the airlines' sphere of influence and therefore constitutes an extraordinary circumstance regardless of the underlying cause.

In addition, the airlines generally have no insight into the decision-making process of the authority.

Furthermore, Austrian courts now consistently hold the view that extraordinary circumstances within the meaning of the Air Passenger Rights Regulation – especially with regard to adverse weather conditions – can only be assumed if they have led to a standstill of air traffic at the airport in question. This interpretation is based on German case law, but does not reflect the actual circumstances in aviation. Given that the burden of proof is already very high, airlines should at least be given the opportunity to exonerate themselves, even if other flights were not affected or only to a minor extent.

With regard to proof of a confirmed booking, which is a prerequisite for claims under the Air Passenger Rights Regulation, the European Court of Justice (ECJ) clarified in March 2025 that the boarding pass can be qualified as 'other evidence' within the meaning of Article 2(g) of the Regulation, showing that the booking has been accepted and registered by the air carrier. A boarding pass for a specific flight is only issued to a passenger if the passenger is entitled to the carriage service.^[3]

In order to mention aspects other than passenger rights, reference should be made to a recent decision regarding the construction of the third runway at the Vienna International Airport. This project has already been dealt with in detail under environmental law aspects by authorities, courts and supreme courts and was ultimately approved. According to the airport operator, the realisation of the third runway was delayed by the covid-19 pandemic. A generous extension of the implementation deadline was therefore requested, which was granted by the competent authority. In May 2024, the Federal Administrative Court ruled that this 9.5-year extension of the implementation deadline was disproportionate. Based on an estimated construction period of around six years, the Federal Administrative Court extended the deadline by 6.5 years, giving the airport operator very little leeway in terms of time. A decision is expected shortly as to whether the permit granted will be used and construction will begin in the near future. If the airport decides against this option, most of the planning and procedural effort would be frustrated. A new permit would have to be obtained if the runway should be realised at a later date.

Finally, an amendment of the Austrian Aviation Act adopted in March 2024 should be mentioned. This is intended to significantly reduce avoidable light emissions from red flashing lights, particularly on wind turbines used to generate electricity. Until now, these flashing lights have had to be permanently switched on in the dark to avoid collisions. The new legal requirement for on-demand lighting of wind turbines will make it legally possible for the flashing lights to be activated automatically only when an aircraft or helicopter approaches. However, a few more steps are still required for legal and technical implementation.

Legal framework for liability

In terms of liability in the aviation sector, international agreements and European provisions assume considerable importance in practice because of the primacy of application of these provisions and their extensive harmonisation of the applicable law. Nonetheless, decisive differences in the jurisdiction of the contracting states are common. The reasons for this are, on the one hand, the different interpretation of the law, and on the other, specific procedural provisions. In addition, national statutes such as the LFG and the Aviation Security Act^[4] also provide (additional) liability and penal provisions. Furthermore, the general damages provisions of the Austrian Civil Code (ABGB) are subsidiarily applicable. Other important laws regulating aviation matters are the Airport Charges Act, the Act on Airport Ground Handling, the Federal Act on International Air Services (BGzLV) and the Air Transport Levy Act. In addition, there are several national regulations such as the Civil Aviation Personnel Licensing Regulation, the Rules of the Air and the Air Operator Certificate Regulation (AOCV).

The supreme civil aviation authority in Austria is the Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology. The competent authority for operational, technical and licensing matters is the Austro Control GmbH, a state-owned entity.

International carriage

As mentioned above, Austria is party to numerous bilateral and multilateral agreements regarding the aviation sector. In terms of liability, the Montreal Convention is of significant importance. It only applies to international transport, which is why the national liability provisions remain applicable, albeit their legal scope is severely restricted. The national Austrian provisions simulate or refer to those of the Montreal Convention (see 'Internal and other non-convention carriage', below). In compliance with the limits of liability, the obligation to register complaints in a timely manner and other restrictions, the Montreal Convention provides liability in respect of damage to passengers and baggage. It replaced the Warsaw Convention, which is only applicable if one of the disputing parties has not ratified the Montreal Convention. In addition, Regulation (EC) No. 2027/97 is applicable, which integrates the Montreal Convention into European law and provides partially supplementary provisions. Austria is also party to the Chicago and Tokyo Conventions. In the event of delays, denied boarding and cancellation, the Air Passenger Rights Regulation 261/2004 lays down claims for liquidated damages.

Internal and other non-convention carriage

The provisions on liability and its extent in Chapter 10 LFG largely resemble those of the Montreal Convention. For example, the owner's liability for damaged baggage and cargo or in the event of death or injury of the passenger or third parties caused by an accident is regulated in Article 148 ff LFG. When there are several owners of an aircraft, all of them have joint liability, but the limits of Article 151 LFG, which are staggered in accordance to the maximum take-off mass, still apply. Also in accordance with the Montreal Convention, the liability of the carrier is limited to 1,131 special drawing rights in the event of damaged baggage. Furthermore, the general damages provisions of the Civil Code are subsidiarily applicable. Several provisions of the ABGB were explicitly integrated into the LFG. For example, Article 161 LFG regarding the liability for contributory negligence refers to Article 1304 ABGB. However, in accordance with the reservation contained in Article 146(1) LFG, the LFG is only applicable where neither European nor international law can be applied.

General aviation regulation

Gratuitous carriage of passengers or goods not performed by a licensed carrier is not subject to the liability provisions of the Montreal Convention or European law. However, the provisions of the LFG on liability, as shown in 'Internal and other non-convention carriage', are applied in these cases because they establish liability of the owner regardless of whether the carriage was gratuitous or performed by a licensed carrier.

Passenger rights

European law mainly regulates passenger rights in Austria. In particular, the Montreal Convention and the Air Passenger Rights Regulation are of decisive importance. This Regulation under certain circumstances entitles the passenger to claim compensation in the event of cancellation or delays. In these procedures, special attention must be paid to the local jurisdiction. In numerous cases, the plaintiff refers to the consumer jurisdiction of Article 17 ff of Regulation (EU) No. 1215/2012 but, according to Article 17(3) of Regulation (EU) No. 1215/2012, it does not apply to transport contracts other than package travel contracts. Concerning claims for compensation the place of jurisdiction is usually not determined by the consumer's residence because the carrier is usually only obliged to transport services. In accordance with the Package Travel Directive, Austrian courts have explicitly found that a flight might not be qualified as package travel, even when it takes place during night hours and includes catering.^[5] Because of the stated reasons, the place of jurisdiction is usually the place of performance of the obligation in question, provided the carrier does not have an establishment that is registered in the Austrian commercial register. Therefore, the legal venue for all these disputes is the court of the district where the airport of arrival or department is situated. Those provisions on international jurisdiction result in the consequence that almost all claims that are based on the Regulation on Passenger Rights are concentrated in only a few courts. The competent court of first instance for the VIE is the District Court of Schwechat if the value of dispute does not exceed €15,000. This centralisation offers the advantage that the deciding judges are highly experienced in passenger rights. The Austrian courts have developed clear judicial practices for most legal questions.

For instance, the courts pay particular attention to the measures that could reasonably be required. This tendency results from one of the few rulings of the Supreme Court (court of last instance) about the Air Passenger Rights Regulation.^[6] Article 5(3) of the Air Passenger Rights Regulation explicitly provides that the obligation to prove that all reasonable measures have been taken refers solely to the extraordinary circumstances that caused the cancellation. Thus, the operating air carrier must only take the reasonable measures that are appropriate to avoid those extraordinary circumstances. The German Federal Court of Justice, for instance, has followed this approach.^[7] Nevertheless, in Austria this question of law is answered to the contrary and to the disadvantage of the air carrier. The carrier must prove that all reasonable measures had been taken to minimise delays as much as possible. Hence, proof of all reasonable measures taken is also required when there is no possibility of influencing the extraordinary circumstances, for example, in the event of closures of the airspace. In these cases, carriers must offer reasonable re-routing or substitute transportation, or prove why this was not reasonable or possible in the particular case.

Article 7(2) of the Air Passenger Rights Regulation provides the reduction of compensation by 50 per cent when a delay does not exceed a distance-related time limit. The District Court of Schwechat – in whose jurisdiction the VIE is situated, as mentioned above – ruled that this reduction does not apply *ipso*, but must be claimed explicitly by the carrier.^[8] This means that the initially claimed full sum may adversely affect process costs. For this reason, carriers and their legal representatives should examine the potential reduction under Article 7(2) of the Air Passenger Rights Regulation in any case. The submission to the court should then include a reference to the 50 per cent reduction and its applicability. This ensures that the court will apply this principle even if the claim is granted.

Provided the proof of extraordinary circumstances succeeds and probable cause shows that the delay or cancellation could not have been avoided, even if all reasonable measures had been taken, the claim for compensation principally will be denied. In particular, the proof of regulatory airspace restrictions and capacity limitations usually lead to a relief of liability. Furthermore, several procedural particularities should be noted. Unlike in other European countries, oral proceedings are held in each case. Both the plaintiff and the defendant must attend the hearing and submit all decision-supporting information by the end of the oral procedures before the court of first instance to avoid adverse procedural consequences. Supplements at a later stage are only allowed in specific cases and only to a limited extent. In practice, a credible and conclusive witness testimony is hugely significant. Written statements of witnesses, however, are not allowed. Usually, the amount in dispute based on the Air Passenger Rights Regulation is comparatively small, which means that an appeal against the ruling of the first instance is strictly limited and the focus should be on the proceedings at first instance.

Article 5 of the Air Passenger Rights Regulation not only provides that there is no compensation in the event of extraordinary circumstances, but also if information has been given in a timely manner and there has been an offer to reroute. The relevant time frames are regulated in Article 5(1)(c) of the Air Passenger Rights Regulation. In Austria and Germany, the operating carrier is solely accountable for informing the passengers on time. The information of a travel agency or the contracting carrier only justifies a relief of liability when the information was transmitted to the passengers within the statutory time frames. In general, the affected passengers should be informed by the operating carrier directly to avoid defaults.

Another significant ruling of the Supreme Court dealt with the sequential use of flight coupons by a passenger.^[9] The legal dispute at hand was based on the circumstance that carriers sometimes offer a flight connection that consists of several flight stages for a cheaper price than the individual flights. The general terms and conditions of carriage of the defending carrier contained a clause that provided an obligation of the consumer to pay an extra charge if they only use one of the flight stages and the flight itself would have been more expensive than the booked flight travel. The Supreme Court considered that such clauses are only valid where the consumer originally intended to use only one of the several flights of a combined offer and, therefore, consciously tried to circumvent the tariff system. Clauses that also burden consumers who initially wanted to use the actual combined offer, but decided otherwise later – for example, because of delay of a feeder flight or a change in the itinerary – are grossly discriminatory and, therefore, void.

In this context, clauses of general terms and conditions of carriage are void in accordance with Article 879(3) ABGB when they grossly discriminate against one party. The Supreme Court has clarified the standards by which the clauses are measured in numerous rulings.^[10] This jurisdiction was developed by an actual decision of the Commercial Court of Vienna, which dealt with the legitimacy of certain clauses in the general terms and conditions of carriage. In summary, the Court has ruled that clauses in conditions of carriage that allow the refund of taxes and fees in the event of cancellation only upon the payment of a fee are inadmissible. Another particularity of the Austrian legal system is the frequent claims for damages as a result of loss of holiday enjoyment. Loss of holiday enjoyment constitutes non-material damage, which means that no direct pecuniary damage occurs in the sphere of the aggrieved party. According to Austrian tort law, compensation for non-material damage may only be granted in explicitly statutory exceptions. With regard to the loss of holiday enjoyment, Article 12(2) of the Package Travel Act (PRG) explicitly entitles compensation in cases where the non-conformity with the contract is considerable. The PRG entered into force on 1 July 2018 and replaced Articles 31b-31f of the Consumer Protection Act (KSchG). Similarly to the PRG, the KSchG stipulates in Article 31e(3) that loss of holiday enjoyment is to be compensated. According to the legal provisions (and partly court decisions), this entitlement may only be applicable to package tours that were organised by a travel agency. Therefore, air carriers are not liable for loss of holiday enjoyment according to Article 31(3) KSchG^[11] or Article 12(2) PRG.^[12]

The provisions of the KSchG are applicable to contracts concluded before 1 July 2018.

Other legislation

In general, there are no competition law or environmental law provisions that are specifically applicable to corporations in the aviation sector. Both the Austrian Competition Act and the provisions on economic crime comply with the European prerequisites. The Act on Airport Ground Handling, which regulates the market, is also relevant. Potential ground-handling services must fulfil a variety of requirements and complete an extensive detailed statutory selection procedure. The number of ground-handling services per airport is restricted to two in each of the essential areas, such as baggage handling, ramp handling, mail and freight-handling services. Regarding the noise emissions of the airport, the Protection Against Environmental Noise Act applies. The statutory provisions are regularly

specified by binding national regulations such as the Regulation on Civil Airports and the Civil Aircraft and Aeronautical Equipment Regulation.

Licensing of operations

Licensed activities

The LFG stipulates that all carriers require a licence. The Act defines an air carrier as any undertaking transporting passengers or goods by aircraft for commercial purposes and explicitly refers to Regulation (EC) No. 2407/92 on licensing of air carriers and Regulation (EC) No. 1008/2008 on common rules for the operation of air services in the European Community. For example, a licence is also required for commercial circular flights. If an equivalent licence of another Member State of the European Union is available, a separate licence application must not be submitted. In general, there are two kinds of licensing procedure. For passenger, mail or freight transport by a sailplane, free balloon or an ultralight aeroplane, an application for a licence according to Article 104 ff LFG must be submitted to the Austrian Ministry for Transport, Innovation and Technology.^[13]

^[13] In all other cases of commercial services in the aviation sector, an application for a licence according to Regulation (EC) No. 1008/2008 must be submitted to the Ministry for Transport, Innovation and Technology.^[14] Austro Control GmbH is responsible for issuing the air operator certificate (AOC), and thereby implementing the Ordinance on Air Operator Certificate 2008. Austro Control GmbH is a public, commercial enterprise that performs sovereign tasks and is subject to instruction from the Minister for Transport, Innovation and Technology.

Ownership rules

The legal framework on ownership is largely orientated to Regulation (EC) No. 1008/2008. In addition, Article 16 LFG states that the Austro Control GmbH keeps an aircraft register. Further implementations are provided by the Civil Aircraft and Aeronautical Equipment Regulation. However, the register only records the operator; the ownership is irrelevant in this context.

Foreign carriers

The AOC of a Member State of the European Union also entitles the operation of aircraft on Austrian territory. Numerous bilateral agreements have been concluded with third countries resulting in the recognition of their AOCs. The BGzLV provides the requirements under which operation and overfly rights are granted to air carriers from third countries.

Safety

In Austria, safety requirements are usually standardised by legal instruments of the European Union. However, in addition to numerous references to European provisions,

the LFG also contains regulations on the implementation and organisation of security measures. The aim is to prevent offences against the safety of civil aircraft. Special safety measures are directly stated in the LFG.

In addition, Article 136 LFG sets out the obligation to report accidents and incidents to Austro Control GmbH. In this way, accidents and incidents are to be recorded and investigated to increase safety in air traffic. The following persons are obliged to report such incidents:

1. operators of civil aircraft;
2. civil aerodrome operators;
3. organs of the public security service;
4. responsible pilots;
5. persons who develop, manufacture, maintain or modify civil aircraft or their equipment construction or components;
6. persons who sign a re-examination certificate or a release certificate for a civil aircraft or its equipment, construction or components;
7. persons entrusted with the performance of the duties of the air traffic service;
8. persons performing a function related to the installation, modification, maintenance, repair, overhaul, flight inspection or control of air traffic; and
9. persons performing aerodrome operations on an aerodrome, including refuelling, services, preparation of mass and gravity, and loading, de-icing and towing of aircraft.

Austro Control GmbH is obliged to forward notifications received without delay to the Federal Security Investigation Offices. Incidents that did not result in an accident are still subject to the reporting obligation. The Civil Aviation Notification Regulation determines the notifiable events and specifies the reporting procedures. Other reporting requirements, such as the Civil Aircraft and Aeronautical Equipment Regulation and the AOCV, may also be subject to reporting requirements. These shall remain unaffected by the obligation to report as stated in the LFG.

Insurance

In the area of insurance law, European standards are of central importance. In principle, the insurance level is based on Regulation (EC) No. 785/2004. The LFG provides specific provisions, and insurance amounts for airlines, which are not subject to the Regulation. These vary depending on the aircraft operated. Austro Control GmbH is the competent authority in insurance matters. The insurer or the insured party must immediately notify terminations or interruptions of the insurance to the authority. An insurance certificate must be issued by the insurer and must be carried in the aircraft.

Competition

Competition law regulates competition between air carriers. Austrian national competition law is mainly set out in the Act Against Unfair Competition and the Competition Act. In addition to the national legal framework, European competition law is applicable – Regulations (EC) Nos. 1/2003 and 139/2004 are relevant in this context. Regulation (EC) No. 411/2004 relates specifically to the aviation sector and extends the applicability of European competition law to air transport between the European Union and third countries.

The applicable competition rules are applied by the regular national and European competition authorities. In Austria, the independent Federal Competition Agency (BWB) is the competent authority. Besides enforcement of the competition provisions, this authority is also responsible for merger control. In addition to the BWB, there is the federal antitrust prosecutor who is directly controlled by the Federal Minister of Justice.

The Competition Act applies to all types of merger transactions. The respective relevant markets are the flight routes. To determine whether a transaction has an effect on competition, the relevant markets are compared.

In the context of competition and commercial law, the protection of intellectual property is also very important. In Austria, trademarks can be registered under the Trademark Act in the Trademark Register. However, there is also protection for unregistered marks and labels if the existence and use is proven. Patents can be registered in the Patent Register. The Patent Act and the Model Protection Act are applicable.

Wrongful death

The provisions of the Montreal Convention standardise the provisions for the loss of physical integrity or the death of passengers. Damages claims are fulfilled if the conduct is attributable to the air carrier, the air carrier was unlawful and culpable, and was causally responsible for the death. Liability is independent from other claims under national regulations. Damages compensating for shock and grief in connection with the death of close relatives are generally only awarded if the impairment is causing a disease. Such damages are attributed by the Supreme Court only in the case of gross negligence on the part of the injuring party.^[15] However, damage to property occurring in the sphere of the surviving dependants must be compensated (e.g., funeral expenses and possible maintenance obligations).

Establishing liability and settlement

Procedure

In the air transport sector, most policyholders and insurers prefer an extrajudicial resolution of disputes. According to the applicable legislation in Austria, there are no restrictions, and those involved have the freedom to choose a preferred dispute resolution.

Especially in cases of long-term contractual agreements, there will be the possibility to conclude an arbitration clause. Contract components or agreements that are merely the result of an imbalance of power or that violate statutory provisions or public morality rights for other reasons are not permitted.

Even though dispute settlement proceedings do not have the same importance in central Europe as in the Anglo-Saxon legal system, there have been some major improvements in this area in recent years.

In the entrepreneurial area especially, many actors recognise the benefits of an extrajudicial or even consensual dispute resolution. This increasing acceptance can also be seen in the private domain. In 2003, a legal framework for mediation procedures concerning civil claims was implemented through the Civil Law Mediation Act. These amenities are hardly regulated in the public sector.

The jurisdiction of the Austrian courts is determined by the value of the dispute. District courts are competent in the first instance for disputes with a value of up to €15,000. If the value exceeds this threshold, the regional courts, which otherwise act as an instance of appeal, decide in the first instance. However, judges are encouraged to support the parties in reaching an amicable solution.

The Agency for Passenger Rights (APF) was established for the extrajudicial enforcement of passenger rights. It is a conciliation and enforcement agency for rail, bus, air and ship traffic. Under Article 139a LFG, air carriers are obliged to participate in a conciliation procedure and provide all the necessary information documents for reviewing a situation. The deadlines laid down in the procedural guidelines of the APF must be adhered to. If a carrier fails to meet its obligations towards the arbitration body, administrative penalties are to be expected. However, the air carrier is not obliged, under any circumstances, to accept a solution proposed by the conciliation body. If conciliation cannot be reached in an APF conciliation procedure, the passenger is entitled to appeal.

Carriers' liability towards passengers and third parties

The liability of the air carrier is primarily regulated by the provisions of the Montreal Convention, which provide maximum liability limits. The air carrier is primarily held accountable. This does not mean, however, that the air carrier has to bear the damage definitively. The Montreal Convention does not affect a potential claim for recourse by the airline against third parties and is, in principle, governed by Austrian law. A recourse claim may be considered, for example, if the damage is caused by several persons who are liable in solidarity with the injured party. If the injured party only takes action against the airline, the airline has to pay the full amount, but may recover the corresponding shares of damages from the other injuring parties.

Special legal conditions exist for the recourse of the air carrier as an employer to its employees as direct victims. The Employee Liability Act provides compensation for damage inflicted by an employer to the employee or a third party in the performance of their work. Compared to the provisions of the ABGB, the liability of the employer for added damages is substantially restricted. In the case of excusable mistakes (the slightest degree of negligence), the liability of the employer is completely omitted. In other cases of negligence, the right of recourse may be reduced by the court according to the Employee Liability Act. However, if an employee is injured while performing their work, the employer

is liable for the impairment of the employee's physical integrity only in the event of intent (employer's liability privilege).

When European or international law provisions are not applicable, the national liability rules apply. Liability against third parties is regulated in Article 148 ff LFG, whereby the maximum liability amounts of Article 151 LFG must be observed. These provisions are broadly similar to those of the Montreal Convention. The injured party loses the claims declared under Article 148 if they fail to report the accident within three months of obtaining knowledge of the damage and the operator of the aircraft. The loss of rights does not occur if the complaint has been omitted owing to a circumstance for which the injured party is not responsible or if the operator of the aircraft became aware of the accident within the time limit in another way.

In addition, the general provisions of the ABGB are to be taken into consideration.

Product liability

The European Product Liability Directive^[16] was implemented in Austria by the Product Liability Act. It establishes that if a person is killed or injured as a result of the defect of a product, the manufacturer or importer is obliged to reimburse the damage. The manufacturer or importer is only liable for damages caused by defective products. A product must be qualified as faulty if it does not offer the security that a person is entitled to expect under all circumstances. The Product Liability Act establishes a fault-independent liability. In the case of material damage, liability is excluded provided the damage occurs in the property of an entrepreneur and concerns an item that has been used predominantly in the company. In addition, the liability provisions of the ABGB apply.

Compensation

Damages claims can be made under national law. Immaterial damage can only be replaced if this is explicitly stipulated by law. For example, the compensation for pain is stated in Article 1325 ABGB. According to the prevailing jurisprudence, both physical and mental pain may be compensated, with higher demands being placed on compensation for mental damage. In practice, the pain is calculated on a daily basis, differentiating between mild, moderate and severe pain. For a day of light pain, approximately €100 will be awarded, though legal practice varies with different courts. For a day with severe pain, up to approximately €350 will be awarded depending on the jurisdiction. According to recent jurisprudence, more claims for damages are also increasingly attributed to psychological damage, such as damage caused by shock or grief. Liability for such damage exists only in cases of gross negligence or intent, according to the case law of the Supreme Court. In contrast, healing costs and losses of earnings are already compensatable for slight negligence.

The Austrian law on compensation for damages is complex and includes numerous special provisions. For example, for contractual claims, a reversed burden proof is in place. According to Article 1298 ABGB, the injured party must prove that they did not act culpably. In the Consumer Protection Act, special provisions for the liability claims of consumers against companies are standardised.

Drones

As in many other countries, there has been a rapid increase in the use of unmanned aerial vehicles in Austria, and there have been repeated incidents involving drones in the vicinity of VIE. Even though collisions and other accidents have been avoided so far, the airport operator is considering installing a drone defence system. In this context, it should be noted that the operation of drones in the no-fly zones around airports is absolutely inadmissible and can lead to criminal consequences.

Apart from the aforementioned no-fly zones, drone flights up to a maximum flight altitude of 150 metres are generally permitted without special permission. The applicable provisions can be found in the fourth section of the LFG and the Aviation Regulation. The regulations regarding unmanned aerial vehicles entered into force with the amendment of the LFG in 2014 and corresponds to the intention of the legislature to create a specific legal framework for the increasing number of deployed drones and the associated risks. The LFG differentiates between certain classes of unmanned aerial vehicles whose approval criteria differ. The classification depends, on the one hand, on the area of operation and, on the other, on the operating mass of the aircraft.

Voluntary reporting

There is no institution for voluntary reporting in Austria. However, air carriers and other persons and companies active in the aviation sector are legally obliged to report. Article 136 LFG provides a reporting obligation to Austro Control GmbH for accidents as well as for incidents that have not resulted in an accident. There are no special provisions for the protection of whistle-blowers. See 'Licensing of operations', above.

Special considerations

The General Conditions of Carriage are of far-reaching importance in the aviation sector and the Austrian courts have already dealt with them several times. This is primarily because the Association for Consumer Protection is authorised to refer the General Conditions of Carriage to the ordinary courts to examine their legality. Also, because the ECJ recently provided clarification in this regard, but still left some uncertainties, we would like to address this topic here.

Claim companies are becoming increasingly important. Passengers are assigning their claims (in particular under the Air Passenger Rights Regulation) to these companies or commissioning them to enforce claims.

Airlines are thus confronted with a flood of claims, which is aggravated by the fact that the claim companies often do not have all the necessary information. Airlines are therefore trying to prevent the assignment of claims, at least for a limited period of time, and to oblige passengers to contact the airline directly first. This approach would also have

decisive advantages for passengers, as the claim companies retain a certain portion of the compensation if they are successful.

However, the case law is opposed to the airlines' intention, as will be discussed in detail below.

The legality of provisions in General Terms and Conditions or General Conditions of Carriage is governed by various laws in the Austrian legal system. In general, the ABGB stipulates that provisions that are surprising and disadvantageous to the other party or that are grossly disadvantageous to one party are inadmissible and therefore invalid. Furthermore, the KSchG contains special regulations for consumer contracts. In particular, unclear or incomprehensible provisions are invalid. In addition to the above-mentioned national regulations, Article 15 of the Air Passenger Rights Regulation 261/2004 is also relevant with regard to air passenger law.

There are two different approaches of the claim companies that can be seen. In the first case, the passenger's claim is fully assigned to the claim company. In the second case, the claim company is only instructed with the enforcement of the claim while the passenger remains the owner.

In Austria, it is generally permitted to assign claims, apart from a few statutory exceptions. On the other hand, the contractual prohibition of assignment is regulated more restrictively. In this context, it does not matter whether it is a contractual claim or a claim derived directly from the law. Therefore, the ECJ's finding in C-11/23, according to which the claims arise directly from the Regulation, is irrelevant with regard to the admissibility of the assignment. In any case, Article 15 applies to passenger claims within the scope of application of the Air Passenger Rights Regulation, according to which the claims of passengers arising from the Regulation may not be contractually restricted. However, the Austrian courts have already drawn clear conclusions from this, particularly on the basis of the national provisions explained above, in a test case against Ryanair in 2021/22, as detailed below.

1. A clause according to which passengers must submit complaints by themselves and wait at least 28 days for a response from the airline before instructing third parties to assert claims on their behalf was declared inadmissible (no full assignment).
2. A clause according to which passengers may only assign their claims to other passengers with the same booking was also declared inadmissible.

As a first result, according to the Austrian legal situation, it is inadmissible if provisions in the General Conditions of Carriage prohibit the engagement of a third party to enforce a claim – be it a lawyer or a claim company. This also applies if the commissioning of a third party is only declared inadmissible for a limited period of time.

To date, Austrian courts have not expressly dealt with a temporary prohibition of assignment. In the ECJ's decision on C-11/23 (43), the court states that not only derogations or limitations that relate directly to that right (this refers to claims based on the Air Passenger Rights Regulation) as such, but also those that restrict the means for exercising that right when compared with the applicable statutory provisions, to the detriment of those passengers, must be considered to be inadmissible for the purposes of Article 15 of the Air Passenger Rights Regulation. Referring to the generally high level of

protection to be granted to passengers, the ECJ further states that it must in principle be up to the passenger to decide which modality they choose to enforce their claims or whether they decide to assign them. It can be deduced from this that a temporary prohibition of assignment would probably also be inadmissible.

Outlook and conclusions

For years, there has been a struggle to amend the Air Passenger Rights Regulation 261/2004 dating from 2004. These efforts have so far failed due to the conflicting interests of consumer protection and the aviation lobby. However, it is undisputed that selective adjustments and clarifications are necessary.

A new attempt was therefore made under the Polish Presidency of the Council. The agreement reached in the Council of the European Union by the transport ministers of the member states at the beginning of June 2025 can be described as a breakthrough, despite or perhaps because of the compromise solution. However, it is now up to the European Parliament, which tends to be critical of restrictions on consumer protection.

In order to understand the scope of the draft in question, it is first necessary to discuss the current Air Passenger Rights Regulation. According to the regulation, passengers are entitled to compensation if they reach their destination airport with a delay of more than three hours. The amount of the flat-rate compensation is graded according to flight distance and amounts to €250, €400 or €600. There is no entitlement to compensation if the air carrier can prove that the delay was due to extraordinary circumstances beyond its control. In addition, this exemption only applies if the airline has taken all reasonable measures to minimise the duration of the delay. In recent years, it has been observed that case law is increasingly imposing disproportionately strict requirements on the extraordinary circumstances leading to exemption from liability and on the proof thereof.

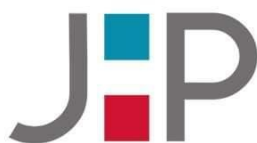
The current draft stipulates that passengers are only entitled to compensation if the delay is four hours or more. In addition, the compensation amounts are to be reduced to €300 and €500, despite the inflation rate recorded since 2004. Furthermore, from the airline's perspective, relief is provided with regard to extraordinary circumstances, so that in future, technical problems, crew illness, and strikes by the airline's staff may also lead to exemption from liability.

The bottom line is that increasing the length of delay that leads to compensation and reducing the amount of compensation will put passengers at a disadvantage. Consumer protection is further weakened by the adjustments in the area of extraordinary circumstances, although we don't think this will eliminate uncertainties and inefficiencies in the application of the law.

Endnotes

- 1 OAG Punctuality League 2016. [^ Back to section](#)
- 2 Austrian Aviation Act of 2 December 1957 (LFG). [^ Back to section](#)

- 3 ECJ 6 March 2025, C-20/24, at <https://curia.europa.eu/juris/document/document.jsf?jsessionid=D50014241FB63B84A3E418BD09E1F970?text=&docid=296205&pageIndex=0&doclang=de&mode=lst&dir=&occ=first&part=1&cid=16035904>. ^ [Back to section](#)
- 4 Austrian Civil Code of 2011. ^ [Back to section](#)
- 5 District Court Salzburg 13 April 2017, 31 C 39/17a. ^ [Back to section](#)
- 6 Supreme Court 17 December 2012, 4 Ob 164/12. ^ [Back to section](#)
- 7 BGH 24 September 2013, XZR 129/12. ^ [Back to section](#)
- 8 District Court Schwechat 1 March 2017, 4 C 744/16v. ^ [Back to section](#)
- 9 Supreme Court 17 December 2012, 4 Ob 164/12i. ^ [Back to section](#)
- 10 Supreme Court 13 April 1983, 1 Ob 581/83; 20 July 2016, 6 Ob 120/15p; 23 February 2017, 2 Ob 29/16b. ^ [Back to section](#)
- 11 Supreme Court 10 October 2002, 6 Ob 11/02i. ^ [Back to section](#)
- 12 There are no court decisions re Article 12(2) PRG to date. ^ [Back to section](#)
- 13 Article 102(1) LFG. ^ [Back to section](#)
- 14 Article 102(2) LFG. ^ [Back to section](#)
- 15 Welser, Bürgerliches Recht, page 340. ^ [Back to section](#)
- 16 Council Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (85/374/EEC). ^ [Back to section](#)



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Introduction

Belgium has ratified most of the international treaties related to aviation.^[1] It has ratified the Chicago Convention,^[2] which thus forms the basis for its aviation regulatory regime. Belgium is an EU Member State and therefore all directly applicable EU legislation is in force, and most of the (not directly applicable) EU Directives have been implemented into Belgian law.

The implementation, however, may be covered by several legal texts, at the federal as well as at the regional level (Brussels region, Walloon region, Flemish region). For example, Council Directive 96/67/EC on access to the ground handling market at EU airports^[3] has been implemented in federal legislation (concerning Brussels Airport) as well as in regional legislation (for ground handling at regional airports). Aero-political and regulatory approaches between the federal government and the regional governments may differ considerably. The complexity of the Belgian legal framework flows from the country's political organisation, leading to the complex package of federal and regional legislation.

The Flemish and Walloon regions are in charge of the operation and equipment of the airports situated on their territory;^[4] the operation of Brussels Airport, however, is governed by federal legislation. The regulatory framework in relation to airport charges also differs from airport to airport. For Brussels Airport, EU Directive 2009/12 on airport charges^[5] has been implemented in the federal laws;^[6] the tariff system and tariff control formula are set after a consultation procedure for 'regulated periods' of five years, with a possibility for the airlines to appeal the airport's decision. For the airports in the Walloon region, this Directive was implemented in the regional legislation,^[7] with consultation procedures also having been put in place, and an appeal possibility for the airlines, but with authorities that differ from those that judge the Brussels Airport tariff system and tariff control formula.

The regions are in charge of environmental matters, so that in addition to 'the balanced approach'^[8] for noise when using Brussels Airport, flights to and from Brussels Airport are required to adhere to strict noise standards imposed by the Brussels region.

The federal authorities furthermore – and notably the Belgian Civil Aviation Authority – remain in charge of safety and security, traffic rights, aircraft registration and licensing matters.^[9] Aircraft accidents and incidents at any Belgian airport must be reported to the Belgian Civil Aviation Authority, which will investigate them.

Slots are being coordinated for Brussels Airport, in the application of the EU 'Slot Regulation',^[10] by the non-profit organisation Belgium Slot Coordination.^[11]

Air navigation services are being provided by the Belgian public air traffic control company skeyes, on the basis of a management contract between skeyes and the Belgian state, which is regularly amended.^[12] The EU Single European Sky Regulations and the EU Safety Regulations fully apply.

Since Belgium has a system of criminal liability of companies, aircraft operators from time to time have been prosecuted with criminal procedures, for infringements of safety rules or noise abatement procedures, for example, although most infringements will be sanctioned with administrative fines.

Year in review

Litigation is still pending with the Administrative High Court concerning the Walloon authorities' decision of 26 August 2022 relating to the renewal of the environmental permit for Liège Airport, and which contains a cap on aircraft movements per year. An administrative appeal was launched with the Walloon Region by Liège Airport SA whereby the cap was slightly increased, but this decision is being challenged with the Administrative High Court. As has been the case already in relation to the capacity limit that was decided upon in The Netherlands in relation to Schiphol Airport, it can be questioned to what extent the Walloon decisions are in line with 'the balanced approach' on noise as intended by the EU legislation. As Liège Airport is an important cargo airport in the country, the outcome of this litigation will unavoidably impact the market evolution.

Also, as regards Brussels Airport, the issue of a cap on aircraft movements is further being looked into. On 17 July 2025, the Flemish Council for Permit Disputes (Raad voor Vergunningsbetwistingen) decided to annul the environmental permit issued in March 2024 for Brussels Airport by the Flemish Government. The permit contained, according to the Council for Permit Disputes, operational restrictions (such as the limitation of the number of movements at the airport) which it deemed contrary to 'the balanced approach'. The Flemish Government has been asked to correctly apply 'the balanced approach', in conformity with EU law, before 30 June 2029.

Brussels Airport Company SA/NV is developing sustainability projects, and has received some state aid that must serve:

the projects aiming at the sustainability of the Aviation sector by covering the costs that are needed for the research, the development, and the implementation of greening projects in the Aviation sector, notably new infrastructure, new facilities, equipment to be developed or to be adapted (such as hangars, GSE, adaptation of existing facilities for sustainable aviation fuels), any digital development aimed at the use of sustainable aviation fuels.^[13]

In 2024, Brussels Airport Company SA/NV 2024 launched a selection procedure to award new licences for airport groundhandling service providers at Brussels Airport for 'the limited categories of groundhandling'. In 2025, it appointed a number of groundhandlers who won their tenders and awarded seven-year licences (effective from October 2025). The new ground handling licences involve two or three airport groundhandlers (depending on the concerned activity). The groundhandling service providers must also have approval from the Belgian Civil Aviation Authority for their activity (or envisaged activity) at Brussels Airport, from the Belgian Civil Aviation Authority.^[14]

Also in relation to air traffic control, environmental aspects are increasingly being taken into account: emissions and noise volumes are now impacting the level of air navigation charges to be paid to air traffic controller skyes; since 1 April 2023, air navigation charges are being modulated on the basis of noise and emissions, with distance flown being taken into account.^[15] Also, skyes has received some aid for sustainability projects.^[16]

The administrative fines imposed by the Brussels Region upon carriers that have been violating the Brussels Region's noise standards still are being very much debated. In 2024, the Brussels Region sent orders to pay to several air carriers, thereby threatening with attachments, even attachments of aircraft, should the carriers refuse to pay the fines. Several litigations are still pending.

Finally, the sanctions imposed by the EU against Russia (the concerned Regulations directly apply) have unavoidably impacted aviation activity in Belgium for important Russian cargo, for example, at Liège Airport.

Legal framework for liability

International carriage

Belgium has ratified (1) the Warsaw Convention^[17] for the unification of certain rules relating to international carriage by air^[18] and the 1955 Hague Protocol amending the Warsaw Convention,^[19] (2) the Guadalajara Convention,^[20] (3) the 1975 Montreal Protocol No. 4;^[21] and (4) the Montreal Convention for the Unification of Certain Rules for International Carriage by Air.^[22] Belgium also has ratified the Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface.^[23]

It furthermore has ratified the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft,^[24] the Hague Convention for the suppression of unlawful seizure of aircraft^[25] and the Montreal Convention for the suppression of unlawful acts against the safety of civil aviation.^[26]

As the EU Regulations are an integral part of Belgium's legislation, Regulation 2027/97^[27] on air carrier liability in respect of the carriage of passengers and their baggage by air, as amended by Regulation 889/2002 applies, as well as Regulation 996/2010^[28] on the investigation and prevention of accidents and incidents in civil aviation and Regulation 261/2004 on passenger rights.^[29]

Passenger rights

Passenger rights in the case of denied boarding, cancellation and delay, as described in Regulation 261/2004, are monitored by the Belgian Civil Aviation Authority as 'the national enforcement body'. The compensation payment under the Regulation is, however, enforced upon the air carriers by the local courts, such litigation being launched via the EU small claims procedure or via the usual judicial regime. The Belgian Civil Aviation Authority also monitors compliance with Regulation 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.^[30]

Although the use thereof has been limited so far for the concerned claims, the Belgian Code of Economic Law^[31] provides for a collective redress procedure in relation to '261 claims' and to claims based on Regulation 1107/2006.

One of the subjects still being debated in court is the statute of limitation that applies to '261 claims'. According to the Belgian Code of Economic Law, a two-year limitation applies

to claims flowing from transportation contracts.^[31] The Supreme Court has confirmed that this limitation applies to passenger air transportation,^[32] but some confusion has arisen because of a reference from the court to the exception for criminal offences, which are governed by a five-year limitation. The Aviation Law of 27 June 1937^[33] would consider infringements of EU Regulations on aviation as criminal offences so that an intentionally wrongful and systematic refusal to pay the '261' compensation could render an airline criminally liable, and in such a case a time limit of five years would apply.

Recent case law^[34] has considered that the short-term limitation of two years for transportation contracts would not apply because the passenger's right for compensation would not be based on the transportation contract between the passenger and the carrier, but would rather flow from the Regulation 261/2004 itself. The court referred to the Court of Justice of the European Union (CJEU) decision of 24 February 2024,^[35] which established that the aircraft operator is due the compensation even if it is not that operator that has the transportation contract with the passenger in place.

The entitlement of passengers to compensation for long delays^[36] has also been confirmed by the Belgian Supreme Court,^[37] although some lower courts do not apply the *Sturgeon* CJEU decision^[38] in relation to flights operated by a third-country carrier, where the delay took place on a leg between two third countries and the country of establishment of the carrier did not endorse the CJEU interpretations of the '261 Regulation'.^[39] A decision rendered by the CJEU on 7 April 2022 was a preliminary ruling following a question raised by the Brussels Enterprise Court,^[40] whereby the CJEU ruled that passengers are entitled to compensation when their flight – departing from Belgium and operated by a third-country carrier – is delayed at final destination, where the delay arises on a leg between two airports in the third country, insofar as the third-country air carrier operates the flight on behalf of an EU air carrier with whom the passengers made their single booking.

Furthermore, travellers with a travel package are protected by the provisions of the Act of 21 November 2017 on the sale of package travels, linked travel arrangements and travel services,^[41] which implemented EU Directive 2015/2032.^[42]

Finally, consumer rights are covered by the general consumer protection provisions under the Code of Economic Law. The directly applicable EU legislation as well as the Belgian Code of Economic Law provide for mandatory information duties of air carriers when selling their tickets.

Other legislation

Environmental law increasingly is intertwined with aviation regulation; a complex framework of environmental requirements and provisions applies to airport infrastructure use and air transportation in general. It impacts licensing and certification. Airport charges are increasingly being differentiated on the basis of noise and emissions. The environmental rules must mandatorily be taken into consideration when assessing any market opportunities. Investment in technology is increasingly being looked at, for example, when selecting or authorising ground handling service providers.

Licensing of operations

Licensed activities

The prevailing requirements for aircraft operating licences are under the directly applicable EU legislation.^[43] The conditions for the technical operation of aircraft in general aviation have been set by separate legislation.^[44]

Airworthiness requirements, and the certification of and approvals for maintenance organisations and personnel are according to the directly applicable EU safety legislation,^[45] such as is the case for pilot licensing and the licensing of air traffic controllers.

Companies providing security services at airports must be authorised, as is the case with ground handling services providers, which are required to obtain a governmental authorisation for services at Brussels Airport (on the basis of the federal legislation) and for services at Liège Airport and Charleroi Airport (on the basis of the (regional) Walloon legislation).

Ownership rules

Regulation 1008/2008 directly applies, specifically Article 4(f), that mentions as one of the conditions for a carrier to obtain an operating licence in an EU Member State, that: 'Member States and/or nationals of Member States own more than 50 per cent of the undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except as provided for in an agreement with a third country to which the EU is a party.' Belgian operators must provide the Belgian Civil Aviation Authority with full information on elements that influence their EU carrier capacity or their technical capacity, and on any modification thereof.^[46]

Foreign carriers

The Chicago Convention fully applies, and the many bilateral air services agreements that Belgium has concluded with third countries as well as the horizontal multilateral agreements that have been concluded by it, and by the EU, contain the respective rights and possibilities for the respective 'designated airlines' in relation to scheduled flights. As an EU Member State, Belgium can, in the framework of its agreements with third countries, designate any EU carrier as its 'designated airline'.^[47] The Belgian authorities will request that such EU carrier nevertheless have an establishment in Belgium.^[48]

Under EU law, an establishment 'involves the actual pursuit of an economic activity through a fixed establishment for an indefinite period' (i.e., a permanent presence), 'even if that presence does not take the form of a branch or agency, but consists merely of an office managed by the undertaking's own staff or by a person who is independent but authorised to act on a permanent basis for the undertaking, as would be the case with an agency'.^[49]

The Belgian Civil Aviation Authority has published a note on the concept of establishment by an EU carrier in the framework of designation; the existence of a secondary operating base in Belgium with at least one aircraft is thereby underlined as being mandatory.^[50]

The 'traffic rights' department at the Belgian Civil Aviation Authority is in charge of looking into the requests of foreign carriers to fly routes in and out of Belgium.

Belgium has implemented EU Directive 2004/36^[51] on the safety of third-country aircraft using EU airports, with a Royal Decree^[52] that sets out, among other things, the procedure for the Belgian Civil Aviation Authority to perform ramp inspections on aircraft from third countries, and the exchange of related information.

Safety

The (directly applicable) EU Regulations fully apply, including the European Union Aviation Safety Agency (EASA) Basic Regulation^[53] and all relevant Commission Implementing Regulations. Belgium has implemented in Belgian law the relevant annexes to the Chicago Convention.^[54]

Specific requirements such as for reporting of occurrences, training, etc., are additionally contained in Belgian federal rules.

Insurance

The (directly applicable) Regulation 785/2004^[55] contains the applicable minimum insurance requirements for air carriers and aircraft operators.

General insurance law applies, and specific legislation covers further specificities, such as mandatory insurance of drone operators^[56] or mandatory insurance of travel organisers.^[57]

Competition

Stakeholders must comply with EU and local competition law, which covers abuse of dominant position, prohibited agreements and concerted practices, state aid rules and rules on concentration. Any infringements may be subject to investigation, prosecution or litigation with the courts, and with the Competition Authority, which has investigative powers. Procedures and investigations on abuse of dominant position and prohibited agreements or concerted practices have been conducted in relation to certain airport services, among other things.

Wrongful death

Belgium is a civil law country. Where wrongful death occurs, this will be judged according to the criminal law rules in the Belgian Criminal Code and (or) according to the general liability rules in the Belgian Civil Code, based on 'the causal link' theory whereby the claimant needs to evidence its damage, the fault and the fact that the fault has directly caused the damage. The amount of compensation will be set by the courts and will depend on the evidence. If the evidence is lacking, a court may grant compensation *ex aequo et bono*. An 'indicative

chart' has been published and is updated regularly by the courts to assist them with the assessment of the compensation in the case of insufficient evidence.

Establishing liability and settlement

Procedure

Disputes can be settled via the courts, or via alternative dispute settlement, including mediation and arbitration.

Liability can be criminal or, if based on the Civil Code, it can be contractual or extra-contractual, usually fault-based, with a few exceptions of strict liability.

A party is liable for damage if it committed a fault that is a necessary condition for the damage. It is sufficient that the fault concerned is one of the faults that has caused the damage. If several parties committed a fault that has caused the damage, every party that has committed a fault may be considered liable. The court may pronounce parties as jointly and severally liable. A party may escape its liability by evidencing that the damage would have occurred also in the absence of its fault.

The claiming party needs to evidence: the existence of the fault, the damage (as it has occurred *in concreto*), and the direct causal link between the fault and the damage.

If it is not sufficiently certain that without the fault, the damage – hence the incident or the accident – would not have occurred, a court will not grant compensation. It must be established that the incident or the accident would not have occurred should the fault not have been committed; if the damage could have occurred without the fault, the court cannot validly condemn it. If the fault consists of negligence, the party committing the negligence will be liable if it had a duty to act, if it can be evidenced that the fulfilment of the duty would have prevented the damage.

The causal link may be evidenced with any evidentiary means validly obtained. Often where the evidence of the causal link is technical or difficult, a court-appointed expert will be asked to assess.

Different statutes of limitation may apply, depending on the exact nature of the fault committed, and on the exact liability grounds.

Carriers' liability towards passengers and third parties

Ratified international agreements are an integral part of Belgian law; the liability regimes under the Montreal and Warsaw Conventions are to be applied by the courts, as well as the liability rules provided for by the directly applicable EU Regulations such as Regulation 261/2004.

In the case of an accident or an incident, the aircraft operator, the aircraft owner, the pilot and the aircraft manufacturer may all be summoned to pay damages as described above – depending on what the committed fault or faults consist of. A claim against the aircraft manufacturer (and sometimes the aircraft owner) may be a product liability claim, involving

liability for defects of the aircraft; the claimant will have to evidence its damage, the defect and the causal link between both, counter-evidence remaining possible.

Drones

Safety requirements and national specificities

Commission Implementing Regulation 2019/947 (also known as the EASA Drone Regulation) applies.^[58] It was implemented by a Royal Decree of 8 November 2020.^[59] The requirements are proportionate to the risk associated with the drone operation: 'risk-based approach', with three categories of civil drone operations: 'open', 'specific' and 'certified'.

National specificities may apply, such as the national standard scenario 'BE-STS-01', which will remain applicable until 1 December 2025.^[60]

The Belgian Civil Aviation Authority has been appointed as the competent authority responsible for enforcing the EASA Drone Regulation, and for carrying out inspections to ensure that drone operators and remote pilots in the 'specific' and 'certified' categories comply with it.^[61] It is also responsible for appointing geo-zone managers for each geo-zone.

The Belgian Civil Aviation Authority has developed an online platform (the Drone Portal) where individuals and companies established in Belgium may:

1. register as a drone operator and obtain a unique identification number;
2. take an online course and online examination for a drone pilot, to operate in 'the open category';
3. obtain an operational authorisation to operate in 'the specific category';
4. submit a declaration based on a standard scenario to operate in 'the specific category'; and
5. access the Belgian chart concerning unmanned aircraft systems (UAS) geographical zones.

Failure to comply with aviation safety requirements applicable to drone operations may constitute a criminal offence.^[62] Under certain circumstances (e.g., no reaction of the prosecutor within 90 days of receipt of a police report), the Belgian Civil Aviation Authority may apply an administrative fine and the local police may attach the drone.

Drone traffic management: UAS geographical zones

The Belgian airspace structure is complex because the territory is limited and the traffic is dense.^[63]

In relation to drones, the Belgian controlled airspace is divided in three categories for 'open' and 'specific' operations:

1. 'UAS excluded geo-zones', where drone flights are prohibited;
2. 'UAS restricted geo-zones' (e.g., 'specific category'), where an operational authorisation from the competent authority is required unless the operation is covered by a Standard Scenario (STS);^[64] and
3. 'UAS facilitated geo-zones' (e.g., 'open category'), where no operational authorisation is required if certain conditions are met (e.g., the drone operator must be registered and must respect UAS geographical zones).

Fixed UAS geographical zones or 'geo-zones' (i.e., a portion of airspace where drone operations are prohibited, or allowed under certain conditions) have been established by Ministerial Decree of 21 December 2020,^[65] in compliance with Article 15 of the EASA Drone Regulation.

It is the responsibility for the remote pilot to obtain updated information concerning the UAS geographical zones before starting a drone operation. Entering a 'UAS geographical zone' without the required authorisation may be treated by the authorities as airspace infringement (e.g., unauthorised penetration of notified airspace).^[66]

During the flight, the remote pilot must comply with applicable operational limitations.

The Belgian Civil Aviation Authority and skeyes have developed an online tool (the Drone Guide) whereby drone operators or pilots can identify the restrictions that apply to their operations.

Development of the U-space airspace

Following the adoption of the U-space regulatory package in 2021,^[67] skeyes has been appointed as the single provider of common information services (CIS).^[68] It obtained its certification from the Belgian Civil Aviation Authority on 16 June 2025 and as such has become the first certified common information services provider (CISP) in the EU. As a CISP, skeyes will operate a centralised, automated platform that facilitates real-time data exchange between manned and unmanned aircraft.

EU Member States are responsible for designating 'U-space airspace' over their territory (e.g., where drone operations are only allowed with the support of U-space service).^[69]

The procedure to create a 'U-space airspace' (e.g., where drone operations are only allowed with the support of U-space service)^[70] is defined as follows:^[71]

1. any state authority or private company can submit a proposal to designate U-space airspace. The proposal must include a description of the needs (e.g., enable more dense and complex operations) and geographical coordination of the proposed U-space airspace;
2. an airspace risk assessment will be carried out by the Belgian Civil Aviation Authority (possibly in consultation with stakeholders that may be impacted from a safety, security, privacy or environmental point of view); it will then render advice to the Minister of Transport; and
3. the decision on the designation (or not) of U-space airspace is to be taken by the Minister.

Guidelines on the risk assessment of U-Space airspace have been published.^[72]

The Belgian Civil Aviation Authority has set up a new coordination and consultation mechanism to ensure that stakeholders involved in U-space collaborate effectively.^[73]

¹ U-space refers to the EU regulatory framework and technologies designed to safely integrate a large number of drone operations in the lower airspace (typically below 120m). It provides the necessary air traffic management (ATM) infrastructure to allow new forms of urban air mobility (UAM) such as electric vertical takeoff and landing (eVTOL) aircraft, air taxis, and cargo drones.

The new mechanism refers to EU Regulation 2021/664 which requires Member States to carry out an airspace risk assessment (possibly in consultation with stakeholders that may be affected from a safety, regulatory, privacy and/or environmental point of view).

So far, the Belgian Civil Aviation Authority has not yet designated a portion of national airspace as 'U-space airspace'. It is, however, working with skeyes to implement U-space airspace in several existing UAS geo-zones (such as the seaport of Antwerp and controlled airspace surrounding public aerodromes).

Risk mitigation of drone operations in the vicinity of aerodromes

Oostend (EBOS), Antwerp (EBAW), Brussels (EBBR), Charleroi (EBCI) and Kortrijk-Wevelgem (EBKT) aerodromes are located in UAS geographical zones managed by skeyes, and are subdivided into sub-zones where specific rules apply.^[74]

1. VLL0: over and close to the runways;
2. VLL1: above and near the airport; and
3. VLL2: further away from the airport.

Before operating in VLL0 and VLL1, drone operators must submit a request to skeyes for 'pre-authorisation', and obtain prior authorisation from the Special Activities Coordination Cell.^[75] Drones must also be equipped with geo-awareness and direct remote ID (DRI) functions, allowing law enforcement authorities to upload the UAS operator registration number remotely.^[76] DRI is expected to lead to increased operator accountability for aviation safety and security.^[77]

A web application has been made available by skeyes (Drone Service Application) allowing drone operators to submit 'pre-authorisation' requests to operate around airports.

Belgian airports may also follow the EASA Guidelines on 'Drone Incident Management at Aerodromes', addressing the unauthorised drone usage in the vicinity of airports (including the creation of a Drone Management Incident Cell).

skeyes and Brussels Airport Company NV/SA have created a joint venture^[78] able to detect non-authorised drones in the vicinity of sensitive infrastructure such as airports.

Counter-UAS jamming systems

The Law of 13 June 2005 on electronic communication prohibits the use of jamming systems, unless they are operated under strict conditions (e.g., used by authorised users only, and the benefits of their use being more important than potential harmful consequences for third parties).^[79]

These conditions are set out in a regulatory framework of 2023 aiming to provide greater flexibility for the use of jammers by the authorities to intercept drones.^[80] It expands the number of authorised users permitted to operate such systems under specific conditions, provided that notification requirements are met. Under this framework, the Belgian Federal Police is empowered to intercept drones, with the use of jammers, subject to defined conditions: the operator needs to assess the risks before disrupting the drone's control or GPS signal, the interception must be reasonable and proportionate (i.e., the benefits must outweigh any potential harm to third parties) and the National Telecommunications Authority (IBPT/BIPT) must be notified within 24 hours. The notification shall include a description of any harmful interference or damage observed (if any). The IBPT/BIPT may authorise testing and training campaigns. The procedure for notifying the use of jammers is described in a IBPT/BIPT Council decision of 16 September 2024.

The Belgian Federal Government announced in its January 2025 coalition agreement an intention to deploy counter-drone systems. These systems are usually designed to detect, track, identify (DTI) and (or) neutralise unauthorised drones.

Voluntary reporting

EU Regulation 996/2010 on the investigation and prevention of accidents and incidents in civil aviation directly applies,^[81] as amended by Regulation 376/2014 on the reporting, analysis and follow-up of occurrences in civil aviation.^[82]

Former Belgian legislation in the area was replaced in 2020 with two Royal Decrees on 'just culture', in further application of Regulation 376/2014 – including the system of voluntary reporting,^[83] whereby the Belgian Civil Aviation Authority has been appointed for receiving the related reporting, and a just culture body has been established where complaints can be addressed.

Outlook and conclusions

The environment increasingly impacts governmental decisions in the area. This may explain why an 'aviation tax' is in force notwithstanding the fact that it may infringe the Chicago Convention,^[84] and why the many administrative fines imposed by the Brussels Region for infringing the local noise standards continue to be inflicted on the carriers, and this in a more severe way than in the past.

Given the environmental requirements – and in correlation to the technical requirements – for airline and airport operations and activities, efficiency thereof (e.g., with pooling of adequate compliant ground handling equipment) is increasingly being looked at. There is an increased need for operators and regulators to be in line, with a wish for increased

cooperation. Given the complexity of the regulatory framework in Belgium, though, this appears to be a challenge.

Endnotes

- 1 Belgium has not ratified the Convention on International Interests in Mobile Equipment, signed at Cape Town on 16 November 2001 (the Cape Town Convention). [^ Back to section](#)
- 2 Convention on International Civil Aviation signed in Chicago on 7 December 1944, ratified by the Belgian Act of 30 April 1947, Belgian State Gazette of 2 December 1948. [^ Back to section](#)
- 3 Directive of 15 October 1996 on access to the ground handling market at EU airports.- [^ Back to section](#)
- 4 Special Act of 8 August 1980 on the reforming of institutions, Article 6 Section 1. [^ Back to section](#)
- 5 Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges. [^ Back to section](#)
- 6 Cf. Royal Decree of 27 May 2004 on the conversion of Brussels International Airport Company and concerning airport facilities, as amended; Royal Decree of 21 June 2004 on the granting of an operating licence for Brussels Airport, as amended. [^ Back to section](#)
- 7 Walloon Decree of 14 July 2011, amending the Decree of 23 June 1994 concerning the creation and the operation of the airports and aerodromes in the Walloon region, Belgian State Gazette 2 August 2011 and Implementation Decree of the Walloon Government of 8 September 2011, Belgian State Gazette 23 September 2011. The Flemish Region has taken an important stake in Brussels Airport Company NV/SA in 2025, which may influence the application of this legislation. A review may be necessary. [^ Back to section](#)
- 8 Cf. Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at EU airports, as amended, and implementing legislation, among others, Royal Decree of 25 September 2003 setting the rules and procedures in relation to the introduction of noise-related operating restrictions, Belgian State Gazette 26 September 2003. [^ Back to section](#)
- 9 Cf. Belgian Aviation Law of 27 June 1937, Belgian State Gazette 26 July 1937, which entered into force on 31 March 1954. [^ Back to section](#)

- 10 Council Regulation No. 95/93 of 18 January 1993 on common rules for the allocation of slots at EU airports, as amended; cf. implementation by Royal Decree of 23 June 2003, Belgian State Gazette 8 August 2003. [^ Back to section](#)
- 11 Designated by Ministerial Decree of 26 June 2003, Belgian State Gazette 8 August 2003. [^ Back to section](#)
- 12 Cf. Royal Decree of 8 January 2024 approving the 13th amendment to the third management contract between the state and skeyes, Belgian State Gazette of 26 January 2024. Since 2023, the management contract between the State and skeyes takes into account 'the energy transition', whereby noise and emissions, and distance flown by the carriers, impact air navigation charges. [^ Back to section](#)
- 13 Royal Decree of 26 December 2022 concerning a subsidy for the greening of Aviation.- [^ Back to section](#)
- 14 Ministerial Decree of 19 November 2014 concerning the approval of ground handling service providers at Brussels National Airport. [^ Back to section](#)
- 15 See Annex to the 7th amendment of the third management contract between the state and skeyes, as in force since 1 April 2023, Belgian State Gazette 30 December 2022. [^ Back to section](#)
- 16 Annex to the 9th amendment of the third management contract of 11 April 2014 between the state and skeyes, as approved by Royal Decree of 21 December 2022, Belgian State Gazette 30 December 2022. [^ Back to section](#)
- 17 Convention for the unification of certain rules relating to international carriage by air, signed in Warsaw on 12 October 1929, ratified by the Act of 12 October 1929, Belgian Official Gazette of 24 October 1936. [^ Back to section](#)
- 18 Protocol to amend the Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on 12 October 1929, done at The Hague on 28 September 1955. [^ Back to section](#)
- 19 Convention supplementary to the Warsaw Convention for the unification of certain rules relating to international carriage by air, signed in Guadalajara on 18 September 1961, Belgian State Gazette of 5 May 1969. [^ Back to section](#)
- 20 Montreal Protocol No. 4 to amend the Convention for the unification of certain rules relating to international carriage by air, signed at Warsaw on 12 October 1929, as amended by the Protocol done at the Hague on 28 September 1955, signed at Montreal on 25 September 1975. [^ Back to section](#)
- 21 Convention for the unification of certain rules relating to the international carriage by air signed in Montreal on 28 May 1999, ratified by the Act of 13 May 2003, Belgian State Gazette of 18 May 2004. [^ Back to section](#)

- 22 Convention of 7 October 1952, Belgian State Gazette of 27 September 1966. ^ [Back to section](#)
- 23 Convention of 4 September 1963, Belgian State Gazette of 30 October 1970. ^ [Back to section](#)
- 24 Convention of 16 December 1970, Belgian State Gazette of 25 September 1973. ^ [Back to section](#)
- 25 Convention of 23 September 1971, Belgian State Gazette of 1 September 1976. ^ [Back to section](#)
- 26 Council Regulation 2027/97 of 9 October 1997 on air carrier liability in the event of accidents, as amended. ^ [Back to section](#)
- 27 Regulation 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation, as amended. ^ [Back to section](#)
- 28 Regulation 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights. ^ [Back to section](#)
- 29 Regulation 1107/2006 of the European Parliament and of the Council of 5 July 2006. ^ [Back to section](#)
- 30 Article XVII.37 of the Code of Economic Law. ^ [Back to section](#)
- 31 Article X.49, paragraph 3 of the Code of Economic Law, as recently amended by a law of 5 November 2023, Article 25, Belgian State Gazette of 11 December 2023: the previous one-year limitation has been replaced by a two-year limitation period . ^ [Back to section](#)
- 32 Hof van Cassatie / Cour de Cassation, 8 February 2019, C.18.0327.N. and Hof van Cassatie / Cour de Cassation, 11 June 2021, C.20.0185.N. ^ [Back to section](#)
- 33 Cf. Belgian Aviation Law of 27 June 1937, Belgian State Gazette 26 July 1937, which entered into force on 31 March 1954. ^ [Back to section](#)
- 34 Court of Enterprises (Nederlandstalige Ondernemingsrechtbank) Brussels, 28 March 2024, A/19/03548; Court of Enterprises (Nederlandstalige Ondernemingsrechtbank) Brussels, 23 January 2025, A/21/03646. ^ [Back to section](#)
- 35 CJEU 29 February 2024, C-11/23, ECLI:EU:C:2024:194, *Eventmedia*. ^ [Back to section](#)
- 36 It concerns of delays of more than three hours; cf. the ‘Sturgeon’ decision of the CJEU: Joint Cases C-402/07 *Sturgeon v. Condor* and C-432/07 *Böck v. Air France* [2009], ECR I-10923. ^ [Back to section](#)

- 37 Hof van Cassatie, 12 October 2017, C.17.0278.N. ^ [Back to section](#)
- 38 [1] Joint Cases C-402/07 *Sturgeon v. Condor* and C-432/07 *Böck v. Air France* [2009], ECR I-10923. ^ [Back to section](#)
- 39 Cf. Switzerland e.g. ^ [Back to section](#)
- 40 CJEU, 7 April 2022, C-561/20, Q and others / United Airlines. ^ [Back to section](#)
- 41 Belgian State Gazette of 1 December 2017. ^ [Back to section](#)
- 42 Directive 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements. ^ [Back to section](#)
- 43 See Regulation 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the EU, as amended. ^ [Back to section](#)
- 44 Royal decree of 9 January 2005 setting the conditions for the technical operation of aircraft in general aviation. ^ [Back to section](#)
- 45 Cf. Article 5 of Commission Regulation 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks, as amended, referring to EASA – Annex III (Part 66). ^ [Back to section](#)
- 46 Article 6 of the Ministerial Decree of 3 August 1994 setting the conditions for the delivery of operating licences to air carriers. ^ [Back to section](#)
- 47 Cf. Regulation 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the EU, as amended. ^ [Back to section](#)
- 48 Royal Decree of 8 August 2010 concerning the designation of EU carriers and the allocation of traffic rights for scheduled flights between Belgium and third countries. ^ [Back to section](#)
- 49 CJEU, case C-221/89, *Factortame* [1991] ECR I-3905 Section 20. ^ [Back to section](#)
- 50 Note of the Director-General of 7 November 2018. ^ [Back to section](#)
- 51 Directive 2004/36 of the European Parliament and of the Council of 21 April 2004 on the safety of third-country aircraft using EU airports. ^ [Back to section](#)
- 52 Royal Decree of 16 December 2005. ^ [Back to section](#)

- 53 Regulation 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation 1592/2002 and Directive 2004/36/EC, as amended. [^ Back to section](#)
- 54 Annexes 13 (Aircraft accident and incident investigation), 14 (Aerodromes), and 18 (Safe transport of dangerous goods by air) of the Chicago Convention; see, for example, Royal Decree of 26 December 2022 regulating safety investigations in civil aviation, Article 1; Royal Decree of 15 March 1954 regulating air navigation, Article 43 bis; and Royal Decree of 18 November 2005 governing the transportation by air of dangerous goods. [^ Back to section](#)
- 55 Regulation 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators, as amended. [^ Back to section](#)
- 56 Royal Decree of 8 November 2020 implementing Commission Implementing Regulation 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft, Belgian State Gazette 8 November 2020. [^ Back to section](#)
- 57 Act of 21 November 2017 on the sale of package travels, linked travel arrangements and travel services. [^ Back to section](#)
- 58 Commission Implementing Regulation 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft. [^ Back to section](#)
- 59 Royal Decree of 8 November 2020 implementing Commission Implementing Regulation 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft, Belgian State Gazette 8 November 2020. [^ Back to section](#)
- 60 Ministerial Decree of 29 December 2020 establishing a national standard scenario, Belgian State Gazette 1 December 2022. [^ Back to section](#)
- 61 Commission Implementing Regulation 2019/947, Article 18. [^ Back to section](#)
- 62 Aviation Law of 27 June 1937, Article 32. [^ Back to section](#)
- 63 Cf. Eurocontrol LSSIP 2022 Report (Belgium). [^ Back to section](#)
- 64 To obtain the operational authorisation, the drone operator is required to conduct a risk assessment, which will determine the requirements necessary for the safe operation of the drone. [^ Back to section](#)
- 65 Ministerial Decree of 21 December 2020 establishing permanent UAS geographical zones and conditions of access to fixed UAS geographical areas. [^ Back to section](#)

- 66 <https://mobilit.belgium.be/sites/default/files/documents/publications/2022/infringements.pdf>. ^ [Back to section](#)
- 67 Commission Implementing Regulation (EU) 2021/664 of 22 April 2021 on a regulatory framework for U-space; Commission Implementing Regulation (EU) 2021/665 amending Implementing Regulation (EU) 2017/373 as regards requirements for providers of air traffic management/air navigation services and other air traffic management network functions in the U-space airspace designated in controlled airspace; Commission Implementing Regulation (EU) 2021/666 of 22 April 2021 amending Regulation (EU) No 923/2012 as regards requirements for manned aviation operating in U-space airspace. ^ [Back to section](#)
- 68 Royal Decree of 27 November 2022 designating the single provider of common information services pursuant to Commission Implementing Regulation (EU) 2021/664 of 22 April 2021 on a regulatory framework for U-space. ^ [Back to section](#)
- 69 Commission Implementing Regulation 2019/947, Article 3. ^ [Back to section](#)
- 70 Commission Implementing Regulation 2019/947, Article 3. ^ [Back to section](#)
- 71 Royal Decree of 6 June 2023 implementing Commission Implementing Regulation (EU) 2021/664 of 22 April 2021 on a regulatory framework for U-space. ^ [Back to section](#)
- 72 Eurocontrol, U-space Airspace Risk Assessment (17 April 2023); EASA AMC and GM to Implementing Regulation (EU) 2021/664 — Issue 1 (16 December 2022). ^ [Back to section](#)
- 73 Order from the Director-General of the Belgian Civil Aviation Authority from 10 December 2024. ^ [Back to section](#)
- 74 Different sub-zones apply for the aerodrome of Kortrijk-Wevelgem (EBKT). ^ [Back to section](#)
- 75 Ministerial Decree of 21 December 2020, Article 29. ^ [Back to section](#)
- 76 Commission Implementing Regulation 2019/947, Article 14. ^ [Back to section](#)
- 77 SKYbrary Aviation Safety portal. ^ [Back to section](#)
- 78 Skeydrone ^ [Back to section](#)
- 79 Article 33. ^ [Back to section](#)
- 80 Act of 28 November 2023. ^ [Back to section](#)

- 81** Regulation 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC. [^ Back to section](#)
- 82** Regulation 376/2014 of the European Parliament and of the Council of 3 April 2014. [^ Back to section](#)
- 83** Royal Decrees of 9 August 2020 implementing Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, Belgian State Gazette of 26 August 2020; Royal Decree of 9 August 2020 concerning the creation of a 'Just Culture' platform, Belgian State Gazette of 26 August 2020. [^ Back to section](#)
- 84** Since 1 April 2022, the air carriers are due an 'aviation tax' to the Belgian state, also called 'embarkation tax'. The tax is calculated on the basis of the number of passengers departing from a Belgian airport and has been explained by the government with reference to environmental considerations. [^ Back to section](#)



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Introduction

Civil aviation in Cameroon is governed by Law No. 2013/010 of 24 July 2013, which applies to all areas of civil aviation in accordance with the international conventions, treaties, and agreements to which Cameroon is a party.

At international level, Cameroon adhered on 15 January 1960 to the 1944 Chicago Convention, which entered into force on 14 February 1960. Since then, several international conventions that were negotiated under the auspices of the International Civil Aviation Organisation (ICAO) have been adopted. These instruments cover several aspects, and in particular:

1. damage compensation,
2. the suppression of offences on board aircraft,
3. the recognition of rights in aircraft,
4. the suppression of illicit acts against civil aviation, and
5. the transit of international air services.

At regional level, Cameroon signed the 1988 Yamoussoukro Ministerial Declaration, aimed at creating a new African aviation policy. This declaration was followed by the 1999 Yamoussoukro Decision (YD), which came into effect in 2000 after being approved by the Heads of State and Government of the African Union (AU). The YD principally aims at liberalising access to air transport markets, resulting in the creation in Africa of a Single African Air Transport Market (SAATM). This single market was adopted during the 24th ordinary session of the conference of the African Union in Addis-Ababa (Ethiopia) in 2015 as part of the AU's 2063 Agenda.

The SAATM was officially launched in 2018 during the 30th ordinary summit of the African Union. In 2019, Cameroon officially pledged to adhere to the SAATM.

At sub-regional level, Cameroon is a member of both the Economic Community of Central African States (ECCAS) and the Economic and Monetary Community of Central Africa (EMCCA), with such affiliations mandating compliance with specific sub-regional legislations.

Adhesion to these international instruments enables Cameroon to align with international standards, thus guaranteeing the security, safety and effectiveness of its air operations, on the one hand, and firmly integrating Cameroon into the regional policy for the liberalisation of air transport services in Africa, as established by the African Union, on the other hand.

To that end, the grant of traffic rights in Cameroon to an African airline, eligible under the conditions set out by the YD, must comply with the requirements of the YD. Indeed, Article 2 of the YD sets forth that its provisions prevail over any multilateral or bilateral agreements related to air services between the states parties that might conflict with the YD. However, agreements whose provisions do not conflict with the YD, as well as agreements concluded with a state not party to the YD, remain valid and complement the YD.

Therefore, the traffic rights held by an African airline that is not a member of the SAATM or, more simply, by a non-African airline are defined by the agreements and conventions to which Cameroon is a party, in accordance with Article 109 of Law No. 2013/010 of 24 July 2013 on civil aviation. Additionally, the provisions of national legislation regarding the liberalisation of domestic and regional air services are extended by civil aviation law to the international network^[1] under the supervision of the relevant regulator.

Civil aviation in Cameroon is regulated by the Cameroon Civil Aviation Authority (CCAA), a public entity with legal personality and financial autonomy,^[2] reporting to the Transport Ministry. The CCAA's resources are derived from service fees, state subsidies, revenue from aviation asset concessions, donations and legacies, and any other resources that may be allocated to the CCAA.

Under Article 3 of Decree No. 2019/174 of 10 April 2019, the CCAA is principally responsible for supervising and developing civil aviation in Cameroon, by:

1. implementing civil aviation policies and regulations: enforcing aviation policies, drafting and monitoring legislative texts, notifying users of international standards and implementing ICAO standards and practices;
2. monitoring air transport and airport development: maintaining relations with regional and international organisations (e.g., ASECNA and ICAO) and developing airport infrastructure;
3. regulating and controlling safety and security: coordinating civil aviation safety and security, developing and updating national safety programmes, organising and managing airspace in cooperation with military authorities, managing aeronautical frequencies, circulating aeronautical information, conducting search and rescue missions, evaluating the level of threats faced by civil aviation and instructing appropriate measures, and supervising safety and security on the basis of the eight critical criteria defined by ICAO;
4. managing and negotiating air service agreements: managing and negotiating bilateral and multilateral agreements, ensuring competition compliance in air transport, regulating and supervising aeronautical activities, planning airport development, maintaining infrastructure not covered by a concession agreement, collecting fees and managing public service routes;
5. maintaining aircraft and personnel registry: keeping a registry^[3] of air transport operators, maintenance organisations, airport managers, air navigation service providers, security companies, training centres, aeroclubs, aeronautical personnel, installations and civil aircraft; and
6. certification and safety standards: enforcing strict aircraft certification standards, conducting regular inspections and mandatory maintenance, verifying compliance of navigation and communication equipment, and ensuring that flight personnel undergo accredited training and assessments for licence renewal.

These responsibilities enable the CCAA to ensure effective regulation and rigorous supervision of civil aviation in Cameroon, including slot regulation. Slot regulation is governed by Order No. 00419/MINT/DAC of 14 May 1999, which concerns the approval procedures for international scheduled air service programmes operated by foreign

airlines. Before each season, airlines serving Cameroon submit proposed flight schedules to the CCAA for review and approval.

Regarding labour issues, the 2013 Civil Aviation Law states in Article 24 that legal relationships between persons on board an aircraft in service are governed by the law of the state of registration of the aircraft. Cameroonian labour law is governed by the Labour Code, established by Law No. 92/007 of 14 August 1992. Additionally, Order No. 727/MINT of 7 June 2005 sets the flight time limitations for civil aviation flight personnel and applies specifically to the employees concerned.

Year in review

The CCAA Statistical Bulletin, 2022 edition, provides an overview of the evolution of air traffic in Cameroon from 2019 to 2022, highlighting the impacts of the covid-19 pandemic and signs of recovery in 2022. Despite a 12.92 per cent decrease in aircraft movements compared to 2019, a notable increase of 25.85 per cent was recorded between 2021 and 2022, totalling 35,050 movements. While overall passenger traffic slightly declined by 0.96 per cent compared to 2019, terminal passenger traffic saw significant growth of 38.32 per cent between 2021 and 2022, reaching a total of 1,856,991 passengers. Among them, 434,816 were on domestic flights, 1,063,385 on international flights, and 358,790 in transit. In 2022, 20,923 tonnes of freight were transported, including 18,812 tonnes for international traffic.

On the judicial front, Judgment No. 262/CIV of 11 March 2024, entered by the Wouri High Court, in the case between the State of Cameroon, represented by the Minister of Justice, Keeper of the Seals, and Cameroon Airlines in liquidation against Boeing Company and Pratt & Whitney, significantly marked the judicial scene in the aviation sector. This case, which was concluded after 40 years of legal proceedings, concerns a compensation action for defective products brought by the Cameroonian state against the manufacturer and constructor of an aircraft.

Furthermore, in an earlier case, a pilot who survived an aircraft crash secured an award against the manufacturer for defective products after insufficient compensation had been paid to the victim by the National Social Insurance Fund, not sufficient for him to continue his medical treatment.

Legal framework for liability

International carriage

International Conventions Ratified by Cameroon in relation to air transport:

1. Chicago Convention (1944): ratified on 15 January 1960, entered into force on 14 February 1960;
2. Rome Convention (1952): concerning damage caused by foreign aircraft to third parties on the surface, ratified on 23 July 1969;

3. Tokyo Convention (1963): relating to offences and certain other acts committed on board aircraft, effective in Cameroon since 22 June 1988;
4. The Hague Convention (1970): for the suppression of unlawful seizure of aircraft, ratified on 14 April 1988;
5. Montreal Convention (1999): for the unification of certain rules relating to international air transport, replacing the Warsaw Convention, ratified by Decree No. 2003/038 of 4 February 2003;
6. Montreal Protocol (1988): for the suppression of unlawful acts of violence at airports, ratified on 13 March 2003, entered into force on 12 April 2003.
7. Cape Town Protocol (2001): concerning international interests in mobile equipment, ratified on 19 April 2011;
8. Convention on the Marking of Plastic Explosives (1991): for the purpose of detection, ratified on 3 June 1998, entered into force on 2 August 1998;
9. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal Convention): ratified on 11 July 1973, entered into force on 10 August 1973; and
10. Convention on the Privileges and Immunities of the Specialised Agencies applicable to ICAO (Annex III): dated 21 November 1947, ratified by Cameroon on 30 April 1992.

Internal and other non-convention carriage

At sub-regional level, Cameroon is a member of the ECCAS and the EMCCA. The instruments adopted by these organisations in respect of the air transport sector are thus applicable to Cameroon.

Within the framework of ECCAS, the main applicable decisions include:

1. Decision No. 16/CEEAC/CCEG/XV/12 relating to the exercise of the profession of air carrier in the Member States;
2. Decision No. 19/CEEAC/CCEG/XV/2012 relating to the liability of the air carrier towards passengers in case of an accident;
3. Decision No. 16/CEEAC/CCEG/XV/12 concerning the duties of an air carrier in the Member States; and
4. Decision No. 17/CEEAC/CCEG/XV/12 concerning the conditions to be met to access air transport in Central Africa.

The provisions issued by EMCCA include:

1. Regulation No. 07/12–UEAC-066-CM-23 of 22 July 2012 adopting the Civil Aviation Code of the EMCCA Member States; and
2. Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007 establishing the liability regime of the air carrier in case of violation of passenger boarding rules in the airports of EMCCA Member States.

General aviation regulation

Law No. 2013/01 of 24 July 2013, governing civil aviation in Cameroon, lays down the provisions related to the liability of the operator of an aircraft, defined as any device capable of sustaining flight in the atmosphere through aerodynamic forces other than those acting on the Earth's surface. Specifically, Articles 65 to 67 of this law address this liability.

Conversely, Decree No. 2009/0052/PM of 22 January 2009 applies to the liability of the aircraft operator within the framework of an air transport contract for passengers or goods. This decree is exclusively applicable to air carriers, defined as companies with a valid operating licence and air carrier certificate (ACC) that conduct air transport operations for remuneration or free of charge.

Passenger rights

In Cameroon, the rights of air passengers on international flights are defined by the 1999 Montreal Convention.

In inter-African air transport, Annex 6 of the YD, also known as the Consumer Protection Regulations for Air Transport Services, establishes passenger rights for persons travelling to or from a YD Member State, where such passengers are not covered by the rules of the Convention. Under such Regulations, passengers are entitled to remedies in cases of denied boarding,^[4] delays,^[5] flight cancellations,^[6] downgrading or upgrading.^[7]

For sub-regional flights, namely, flights from or to an airport in Cameroon or flights to or from another EMCCA Member State,^[8] EMCCA Community Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007 establishes minimum rules applicable in case of non-compliance with the boarding rules governing air carriers. These violations may result from denied boarding on a regular flight or from a sizeable delay or flight cancellation. Under this Regulation, passengers are entitled to compensation if they are denied boarding where they are in possession of a valid ticket and a confirmed reservation and where they arrive at the airport on time.^[9] Save in case of force majeure, compensation is also provided for in case of cancellation^[10] or major delay of the flight.^[11] Under Article 9 of the Regulation, passengers also have the right to be informed, to have their telephone or messaging expenses reimbursed and to receive appropriate meals depending on the waiting time, as well as hotel accommodation if necessary.

For internal flights in Cameroon, Decree No. 2009/0052/PM of 22 January 2009 only applies to baggage delays and provides that if registered baggage does not reach the intended destination within 21 days of the scheduled date, then the passenger concerned may enforce his or her contractual rights against the carrier, in particular under the standard terms of transport.^[12] Decree No. 2009/0052/PM does not contain any provision as regards delayed or cancelled flights or denied boarding.

Other legislation

Law No. 2016/007 of 12 July 2016, enacting the Penal Code in Cameroon, penalises the carrying on of dangerous activities, as per Article 228 et seq. This offence is committed by any person who, through gross recklessness, clumsiness, inattentiveness, negligence

or risk-taking, endangers others by failing to take necessary precautions to prevent bodily harm. These provisions were enforced following a railway accident in Cameroon that resulted in multiple deaths and injuries^[13] and might be applicable to air transport.

Licensing of operations

Licensed activities

In Cameroon, the pursuit of the public air carrier activity is subject to the grant of an ACC. To that end, the applicant must (1) prove that it has title to the aircraft in respect of which it intends to carry on the activity; and (2) offer the required moral, technical and financial guarantees.

It is also necessary to obtain an air operating licence (AOL) under Articles 99 and 100 of the 2013 Act. The AOL authorises the pursuit of specific commercial air activities, while the ACC recognises the technical and managerial competencies of the company.

The process for acquiring an ACC, as outlined in Instruction No. 00355/CCAA/DG/DSA of 4 August 2009, involves several steps. The applicant must first inform the CCAA of its project. The CCAA hears the applicant during this first preliminary application and preliminary evaluation phase. If the applicant maintains its project after the information communicated by the CCAA, then the applicant is asked to submit a formal application which shall be evaluated by a project manager appointed by the Director General of the CCAA.

Once the formal application is found to be satisfactory, a comprehensive assessment covering financial, economic, legal and regulatory aspects is conducted. If deficiencies are identified, then notice is given to the applicant, and the process is suspended until issues are resolved. Upon satisfactory resolution or correction of deficiencies, a recommendation for issuing the AOL is submitted to the Director General.

After the AOL is issued, an evaluation of the technical documentation is conducted, focusing on the operator's organisational structure, routes and compliance with operational regulations. If deficiencies are found at this stage, the process is paused until corrections are made. Once this phase is successfully completed, a recommendation for issuing the ACC is submitted to the Director General. The ACC includes operating instructions detailing all relevant responsibilities, authorisations, limitations and other specific provisions. The ACC is valid for two years and must be renewed two months before expiration in order to ensure continuity of operations.

Ownership rules

According to Decree No. 2012/0001 PM of 11 January 2012, supplementing certain provisions of Decree No. 2003/2031/PM of 4 September 2003 on the practice of the air transport profession, only companies with their registered office in Cameroon and primarily engaged in aviation activities, wholly owned or majority owned by Cameroonian nationals, may be granted the title of air carrier.

Additionally, any aircraft registered in the Cameroonian aeronautical register must have Cameroonian nationality. An aircraft may be registered in Cameroon only if it is owned by a natural or legal person of Cameroonian nationality. However, exemptions are possible, in particular as regards foreign airlines.

Foreign carriers

Foreign airlines wishing to open and operate international air services in Cameroon must obtain an operating authorisation issued by the CCAA.^[14] This authorisation is subject to regulatory conditions, including safety, security, financial and operational capacity requirements and the obligation to comply with international and national standards.

Safety

In Cameroon, air security rules are principally defined by Law No. 2013/01 of 24 July 2013 on civil aviation, which integrates international standards. These rules cover various aspects, and in particular aircraft, air navigation, aeronautic telecommunications and airfields.

As regards aircraft, the law provides that no aircraft may transit in the Cameroon airspace without being registered and holding airworthiness and operating documents conforming with applicable regulations. These documents prove that the aircraft is fit to fly in total safety.

The pilot in command or the operator or owner of the aircraft must give relevant authorities notice of any accident or incident, whether occurring on the ground or in flight, capable of jeopardising the aircraft's safety. In addition, any person discovering aircraft debris must immediately inform the relevant authorities.

Any accident or incident affecting aircraft safety gives rise to a technical investigation. The procedures for initiating and conducting such investigations are defined by Decree No. 2010/2570 PM of 8 September 2010, Order No. 149/CAB/PM of 8 September 2010 and the Order of 12 September 2010.

Insurance

Under the 2013 Civil Aviation Act,^[15] any aircraft operating in Cameroonian airspace must be insured in accordance with applicable regulations. The aircraft operator must also obtain an insurance policy covering the aircrew. Any failure to comply with this obligation may give rise to the application of the sanctions provided for by law.

Competition

Under Decree No. 2031/PM of 4 September 2003 on the practice of the air carrier profession (Article 8), airlines are free to set their fares. However, they must submit their

fares for approval to the CCAA at least 45 days before they come into effect. Airlines must also specify the general conditions of carriage and any proposed fare reductions. If the CCAA has not issued any opinion within 15 days, then the fares are deemed accepted. These provisions also apply to foreign air transport companies authorised to embark or disembark passengers on national territory on regular or non-regular flights.

To maintain fair and sustained competition among air carriers, the CCAA has listed a series of prohibited unfair commercial practices, such as price or capacity dumping, predatory pricing, price and capacity discrimination, as well as insufficient capacity.^[16] Any attempt to obstruct competition, such as limiting market access or distorting prices, is also prohibited.^[17] Any agreement, contract or contractual clause relating to a practice contrary to free competition is null and void.

Disputes concerning competition are resolved in accordance with the legal provisions in force.^[18]

Wrongful death

As regards bodily injuries, contrary to victims of road traffic accidents,^[19] victims of aircraft accidents in Cameroon are not protected by a specific legal framework for damage assessment. In practice, courts often rely on medical expert determination to evaluate injuries and their impact on the victim. Indemnification takes into account various aspects, such as medical expenses, loss of income, physical and moral suffering and the loss of future gains. The Supreme Court holds that the losses indemnified by the trial judge must be actual, certain, genuine, lawful and legitimate to give rise to valid legal adjudication.^[20]

According to recent case law, the aircrew may also file an action in damages against the manufacturer of an aircraft in cases of industrial accidents that occurred during working time. In a specific case involving a pilot who survived an air crash, the plaintiff obtained an award against the manufacturer of the aircraft. This decision was based on a technical investigation report proving that the manufacturer was liable for the crash, as regards the fraction of the damage not covered by Caisse Nationale de Prévoyance Sociale, the Cameroonian public agency responsible for the indemnification and prevention of industrial accidents and occupational diseases.

Establishing liability and settlement

Procedure

According to Framework Law No. 2011/012 of 6 May 2011 on consumer protection in Cameroon, air transport disputes can be resolved through individual or collective action before courts of competent jurisdiction or arbitral bodies.^[21]

An individual action is brought by the aggrieved consumers or their legal successors, while a collective action is brought by a consumer association or a non-governmental

organisation. This action can be preventive, aimed at avoiding an infringement of consumer rights, but may also be remedial, in the case of established harm.^[22]

The competent arbitral body is the Committee of Appeal for the Arbitration of Consumer Protection Disputes,^[23] present in each district. Its mandate consists in providing public arbitration services for consumer protection disputes in accordance with Decree No. 119 PM of 10 August 2012 on the organisation and operation of the Appellate Committees for the Arbitration of Consumer Protection Disputes. Passengers generally resort to individual action before the High Court or the Court of First Instance, due to administrative burdens, depending on whether the amount involved is greater or less than 10 million CFA francs.

The time limit for bringing an action is two years from the date of arrival at the destination for domestic flights under Article 10 of the 2009 Decree and the provisions of the Montreal Convention as regards international flights.

Carriers' liability towards passengers and third parties

In the case of international flights, air carrier liability is governed by the 1999 Montreal Convention. For inter-African flights departing from or arriving in Cameroon, and to or from an airport whose state is a party to the YD, for damage not covered by conventional law, the air carrier is subject to strict liability in cases of denied boarding,^[24] delays,^[25] flight cancellations,^[26] or downgrading.^[27] The carrier must fully refund the cost of the airline ticket within seven days following the incident,^[28] and must provide rerouting and additional compensation ranging from US\$250 to US\$600^[29] depending on the flight's duration.

For flights within the EMCCA community,^[30] departing from or arriving in Cameroon, the air carrier is also subject to strict liability in cases of denied boarding, significant delays or flight cancellations. Financial compensation reaching 100,000 CFA francs, but limited to the ticket price, must be paid to the passenger, in addition to a full refund or rerouting to their destination.

For domestic flights, Decree No. 2009/0052/PM of 22 January 2009, adopted after the Kenya Airways Flight 507 air crash of 2007,^[31] establishes strict liability in cases of death, injury or any other bodily harm^[32] due to an accident during air transport carried out by the carrier, whether or not for remuneration.^[33]

For bodily harm not exceeding 100,000 special drawing rights (SDR) per passenger, the carrier must provide full compensation.^[34] Above this amount, the judge may proportionately reduce the compensation when a single injured or deceased passenger has multiple beneficiaries entitled to compensation, where total compensation exceeds 100,000 SDRs.^[35] Moreover, for damage exceeding 100,000 SDRs per passenger, the carrier's fault must be proven.^[36]

Regarding baggage, the carrier is strictly liable to pay compensation in cases of delay,^[37] destruction, loss, or damage to baggage^[38] when the damage occurred on board the aircraft or during any period in which the carrier had custody of the baggage, unless the damage resulted from the inherent nature or defect of the baggage. This liability is limited to 1,000 SDRs per passenger unless a special declaration of value and additional payment are made.^[39] However, the carrier's fault is to be proved if the damage involves checked baggage, particularly personal belongings.^[40] Decree No. 2009/0052/PM of 22 January

2009 also provides for a remedy if the baggage does not reach its destination within 21 days of the scheduled date.^[41]

Regarding liability to third parties, the aircraft operator is liable as a matter of law for damage caused to third parties on the ground.^[42] In the case of aircraft leasing, the owner and the operator are jointly and severally liable.^[43] This liability may be mitigated if the fault of the victim is proved.^[44] The CCAA may intervene in cases of damage caused to third parties by detaining the aircraft and allowing the court of relevant jurisdiction to intervene.

Product liability

Current Cameroonian law lacks a specific liability framework in relation to defective products. Therefore, courts must resort to common law, which requires proof of fault.

However, significant changes are on the horizon with Framework Law No. 2011/012 of 6 May 2011 on consumer protection in Cameroon, and the draft Cameroonian Civil Code,^[45] which proposes a specific defective products liability regime.

These laws establish automatic liability for producers in the event of any damage caused by a defect in their product. If the producer is a legal entity, then the producer must offer compensation to the victim within six months of the compensation claim, followed by payment within three months of the end of the withdrawal period.

From a procedural perspective, victims of a defective product may institute an individual or collective action against the producer. The liability action against the producer is subject to a five-year limitation period from the date on which the damage occurs or is discovered, and is subject to a 20-year limitation period for damage to the body caused by a component or product used for therapeutic purposes.

Current case law does not yet reflect this future legal framework. A noteworthy judicial precedent was set by Judgment No. 262/CIV on 11 March 2024, delivered by the Wouri High Court, in the case between the State of Cameroon and Cameroon Airlines (a company undergoing a liquidation procedure) against Boeing Company and Pratt & Whitney.^[46] This landmark case, resulting from 40 years of legal proceedings, highlighted the absence in Cameroon of a specific framework governing the liability of aircraft manufacturers for defective products.

The case dates back to 1984 when a Boeing 747 operated by Cameroon Airlines crashed near Douala International Airport, leading to the airline's judicial liquidation. The liquidated company filed a claim for damages against the manufacturers, asserting tort liability for negligence. The court, referencing the 1944 Chicago Convention and international aviation safety standards, found the manufacturers liable for negligence endangering the aircraft's safety.

This precedent marks a significant step towards establishing product liability guidelines in Cameroon, particularly in the aeronautical sector. While relying on other legal provisions in the absence of a specific framework, it paves the way for the adoption of more precise legal measures to address these issues in the future.

Compensation

Generally, full compensation is provided within the limits set by the Montreal Convention or the 2009 National Decree on airline liability and compensation rules for damage.

In some cases, judges have awarded passengers compensation for damages not covered by the Montreal Convention, or have provided for compensation exceeding the limited amounts specified by the Convention.^[47]

Air France, which considered that this practice violated the Montreal Convention of 28 May 1999, and in particular Article 22 et seq., which limits airline liability, lodged an appeal before the Supreme Court.

The case began when an Air France passenger, Mr. Y. F., suffered from a significant delay during his journey. Due to this delay, he sued Air France, seeking compensation for the inconvenience. In its decision No. 107/CIV of 17 June 2016, the Court of Appeal in Littoral ordered Air France to pay Mr. Y. F. a delay compensation of 4,150 SDRs, equivalent to 3,412,282.14 CFA francs, under Article 22 of the Montreal Convention, and 178,500 CFA francs in travel and vehicle rental expenses.

Dissatisfied with this decision, Air France appealed to the Supreme Court on 12 October 2016. Air France argued that the awarded additional expenses were contrary to the limited compensation principle enshrined in Article 22 of the Montreal Convention, which covers all types of passenger damage. Air France contended that, once compensation is granted, no additional sums may be awarded to the passenger, regardless of their nature. Furthermore, Air France argued that there were no damages to compensate since the passenger had cancelled his flight and later received a refund for his ticket.

The Supreme Court ruled that Air France's grounds for appeal did not comply with Article 53(2) of Law No. 2006/016 of 29 December 2006, which governs the organisation and functioning of the Supreme Court, as such grounds were not adequately structured and developed. On these grounds, the Supreme Court confirmed nevertheless that the Court of Appeal had substantiated its decision by demonstrating the existence of an actual damage, and in particular a significant delay, despite the cancellation of the flight following this significant delay.

In the event of an accident resulting in death or injury, the carrier is required to make advance payments of at least 15,000 SDRs per passenger within 15 days of identifying the beneficiaries.^[48]

Individuals unable to work due to an accident are indemnified by the state-funded social security and medical support system, administered by the National Social Insurance Fund. This fund can intervene in legal proceedings to recover the amounts paid to the victim.

Drones

The operation of drones in Cameroon is now regulated and is conditional on the grant of a general aviation operation certificate or on the grant of an air transport operator certificate. These regulations are aligned with the provisions of the above ministerial orders, namely, Order 732/MINT of 7 June 2005, Order 237/MINT of 7 June 2005 and Order 605/MINT of 13 September 2006.

These orders set out the terms governing the registration of civil aircraft, define the criteria and procedures for the award of the nationality marks and determine the terms of use of civil aircraft and air service operations. The principal purposes of these regulations consist in integrating drones into the civil aviation system while ensuring ongoing supervision by the CCAA.

Drone operators must comply with these provisions by applying for identification with the Director General of the CCAA. Such application must contain detailed information on the drone, such as the drone type, serial number, proof of acquisition, proof of the issuance of an import licence and nature of the contemplated air services.

After the application is approved, the drone is registered and its owner receives an identification card, which includes the identification marks, and in particular the code of the relevant region in which the drone shall be operated, the 'RPA' acronym and a five-digit serial number.

Any modification of the drone's characteristics, as well as any change in owners or home ports is to be notified to the CCAA to allow for the updating and re-issuance of the drone's identification card.

In case of non-compliance with these provisions, drone operators may incur administrative sanctions. Therefore, this regulatory framework aims at governing drones and integrating them into Cameroon's civil aviation system, while ensuring the security of air operations.

Voluntary reporting

The reporting regime for accidents or incidents in civil aviation in Cameroon is defined by the 2013 Civil Aviation Act, and in particular by Article 71 et seq. These provisions require that any incident or accident impacting the safety of an aircraft be reported to the nearest competent authorities by the aircraft commander, operator or owner. Additionally, any person discovering aircraft debris must immediately inform the nearest administrative or aviation authority.

In the event of any damage to individuals or property, notice is to be given to the territorially competent Public Prosecutor. This step aims to initiate an air safety investigation and to deploy any necessary search and rescue operations, in accordance with the guidelines established by Order No. 0000092/A/MINT of 24 September 2010, which regulates the procedures for technical investigations of accidents or serious incidents involving civil aircraft.

Outlook and conclusions

The Cameroonian air transport sector is experiencing stable growth again due to the entry of new regional and international airlines into the market, as well as the commitment of stakeholders and the government. Currently, around 20 airlines serve Cameroon alongside the national carrier, Camair-Co.

Several recommendations can be made to improve the Cameroonian aviation sector's efficiency and resilience. It is essential to enhance judicial efficiency, harmonise regulations with international standards, and reduce the duration of judicial procedures.

Endnotes

- 1 Article 106, Law No. 2013/010 of 24 July 2013 laying down the legal regime applicable to civil aviation in Cameroon. [^ Back to section](#)
- 2 Article 16, Law No. 2013/010 of 24 July 2013 laying down the legal regime applicable to civil aviation in Cameroon. [^ Back to section](#)
- 3 Article 13 et seq., Law No. 2013/010 of 24 July 2013 laying down the legal regime applicable to civil aviation in Cameroon. [^ Back to section](#)
- 4 Article 15, Consumer Protection Regulations for Air Transport Services. [^ Back to section](#)
- 5 Article 16, Consumer Protection Regulations for Air Transport Services [^ Back to section](#)
- 6 Article 17, Consumer Protection Regulations for Air Transport Services. [^ Back to section](#)
- 7 Article 18, Consumer Protection Regulations for Air Transport Services. [^ Back to section](#)
- 8 Cameroon, Central African Republic, Gabon, Congo-Brazzaville, Equatorial Guinea, Chad. [^ Back to section](#)
- 9 Article 5, EMCCA Community Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007. [^ Back to section](#)
- 10 Article 7, EMCCA Community Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007. [^ Back to section](#)
- 11 Article 8, EMCCA Community Regulation No. 06/07-UEAC-082-CM-15 of 19 March 2007. [^ Back to section](#)
- 12 Article 3, para. 3, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 13 Eséka High Court, Criminal Chamber, Judgment No. 625/COR of 26 September 2018, Public Prosecutor and beneficiaries of A and other deceased beneficiaries + B D Rosalie and other injured parties v. X, Y, Z, ... and Camrail S.A. (legal person held criminally liable). [^ Back to section](#)
- 14 Article 104, 2013 Civil Aviation Law. [^ Back to section](#)
- 15 Article 4 et seq., 2013 Civil Aviation Act. [^ Back to section](#)

- 16 Article 9, Decree No. 2003/2031/PM of 4 September 2003 on the practice of the air carrier profession. ^ [Back to section](#)
- 17 Article 106.-1, 2013 Civil Aviation Act. ^ [Back to section](#)
- 18 Article 107, 2013 Civil Aviation Act. ^ [Back to section](#)
- 19 Decree No. 90/1197 of 3 August 1990 on the method for determining invalidity rates and assessing indemnities in case of accident and Ordinance No. 89/005 of 13 December 1989 on the indemnification of victims of road accidents. ^ [Back to section](#)
- 20 Cameroon, Supreme Court, Judicial chamber – social section, 3 May 2017, 108/Soc.- ^ [Back to section](#)
- 21 Article 26, Framework Law No. 2011/012 of 6 May 2011, on Consumer Protection in Cameroon. ^ [Back to section](#)
- 22 Article 27, Framework Law No. 2011/012 of 6 May 2011, on Consumer Protection in Cameroon. ^ [Back to section](#)
- 23 Article 30, Framework Law No. 2011/012 of 6 May 2011, on Consumer Protection in Cameroon. ^ [Back to section](#)
- 24 Article 15, Regulation on the Protection of Consumers of Air Transport Services. ^ [Back to section](#)
- 25 Article 16, Regulation on the Protection of Consumers of Air Transport Services. ^ [Back to section](#)
- 26 Article 17, Regulation on the Protection of Consumers of Air Transport Services. ^ [Back to section](#)
- 27 Article 18, Regulation on the Protection of Consumers of Air Transport Services. ^ [Back to section](#)
- 28 Article 21, Regulation on the Protection of Consumers of Air Transport Services. ^ [Back to section](#)
- 29 Article 23, Regulation on the Protection of Consumers of Air Transport Services. ^ [Back to section](#)
- 30 Cameroon, Central African Republic, Gabon, Republic of the Congo, Equatorial Guinea, Chad. ^ [Back to section](#)
- 31 Kenya Airways Flight 507 was a Kenya Airways regular international flight connecting Abidjan (Ivory Coast) to Nairobi (Kenya) with a scheduled stopover in Douala (Cameroon). Unfortunately, on 5 May 2007, shortly after takeoff from Douala International Airport, the Boeing 737-800 aircraft crashed in the middle of the night resulting in the loss of all passengers and crew on board. ^ [Back to section](#)

- 32** Article 3.1, Decree No. 2009/0052/PM of 22 January 2009 on the liability of air carriers and indemnification rules in case of damage to passenger, baggage and goods. [^ Back to section](#)
- 33** Article 1, Decree No. 2009/0052/PM of 22 January 2009 on the liability of air carriers and indemnification rules in case of damage to passenger, baggage and goods. [^ Back to section](#)
- 34** Article 5, para 1, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 35** Article 5, para 4, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 36** Article 5, para 2, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 37** Article 3, para 3, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 38** Article 3.2 Decree No. 2009/0052/PM of 22 January 2009 on the liability of air carriers and indemnification rules in case of damage to passenger, baggage and goods. [^ Back to section](#)
- 39** Article 6, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 40** Article 3, para 2, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 41** Article 3, para 3, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)
- 42** Article 66, 2013 Civil Aviation Law. [^ Back to section](#)
- 43** Article 67, 2013 Civil Aviation Law. [^ Back to section](#)
- 44** Article 66.-1, 2013 Civil Aviation Law. [^ Back to section](#)
- 45** Article 1502 et seq. Preliminary Draft of the Cameroon Civil Code. [^ Back to section](#)
- 46** Judgment No. 262/CIV of 11 March 2024, *Wouri High Court, State of Cameroon represented by the Minister of Justice, Warden of the Seals and Cameroon Airlines, a company undergoing a liquidation procedure v. Boeing Company and Pratt & Whitney*. [^ Back to section](#)
- 47** Supreme Court, Judicial Chamber, Civil Section, Case No. 078/CIV/017, appeal No. 313/REP of 12 October 2016, Decision: No. 74/Civ. of 4 July 2019, Case: *Compagnie Air France v. Y...François*. [^ Back to section](#)
- 48** Article 7, Decree No. 2009/0052/PM of 22 January 2009. [^ Back to section](#)



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Introduction

Canada's aviation sector continues to evolve under a mature and integrated regulatory structure that combines stringent safety oversight with comprehensive consumer and accessibility protections. The Supreme Court of Canada's decision in *International Air Transport Association v. Canadian Transportation Agency*^[1] confirmed the constitutional validity of the Air Passenger Protection Regulations (APPR) and clarified their compatibility with the Montreal Convention's exclusive damages regime.

Appellate and superior-court rulings – *Air Canada v. Rose*,^[2] *N.S. v. Ukraine International Airlines*,^[3] and *Brink's Canada Ltd v. Air Canada*^[4] have underscored judicial focus on operational diligence, accessibility compliance, and cargo-security standards. Parallel policy initiatives at the Canadian Transportation Agency (CTA) and Transport Canada demonstrate a coordinated move toward more vigorous enforcement, early dispute resolution, and expanded transparency.

With yet-to-be-implemented amendments to the APPR introducing a C\$790 processing fee per passenger complaint proceeding to decision – payable whether or not liability is found – the incentive structure for proactive settlement and meticulous documentation has become clear.

Sector overview and market access

Canada's civil aviation sector is a system comprising privately operated carriers, arm's-length airport authorities, and NAV CANADA, a private, non-share capital corporation providing nationwide air navigation services. Economic regulation and consumer protection are derived from the Canada Transportation Act (CT Act) and the Air Transportation Regulations (ATR), which are administered by the CTA. International market access is governed by bilateral and multilateral air-services agreements negotiated under the federal Blue Sky Policy, which promotes reciprocal liberalisation while protecting national interests.

Slot-controlled airports, such as Toronto Pearson, Vancouver, and Montréal–Trudeau, allocate capacity through local coordination, consistent with the International Air Transport Association (IATA) Worldwide Airport Slot Guidelines. Operators must also comply with airport-specific noise and curfew restrictions, customs and border security procedures, and environmental regulations.

Treaty-based commitments and interests in aircraft

Canada is a contracting state to the Montreal Convention (1999) on international carriage, the Cape Town Convention and Aircraft Protocol (2001), and the Tokyo Convention (1963). The International Interests in Mobile Equipment (Aircraft) Act gives domestic effect to the Cape Town Convention, allowing financiers and lessors to register and enforce international interests in aircraft and engines.

Government policy and state aid

Direct government subsidies to carriers are rare. Federal participation focuses on safety oversight (Transport Canada), security screening (CATSA), and infrastructure programmes such as the National Trade Corridors Fund. Airport authorities fund projects through retained surpluses and debt markets; NAV CANADA operates on a cost-recovery basis.

Labour and employment

Airline employees are subject to the federal Canada Labour Code, which regulates hours of work, rest, dismissal, and occupational health and safety. Collective bargaining is common, and human rights and accessibility obligations arise under the Canadian Human Rights Act and the Accessible Canada Act.

Regulators and their powers

- Transport Canada Civil Aviation (TCCA) – airworthiness, certification, and safety enforcement.
- Canadian Transportation Agency (CTA) – economic licensing, tariffs, passenger and accessibility rights, and consumer-protection enforcement.
- Transportation Safety Board (TSB) – independent occurrence investigation under the Transportation Safety Board Act.
- NAV CANADA – national air navigation services provider.
- CATSA – passenger and baggage screening at designated airports.

Voluntary reporting and confidentiality

The TSB's SECURITAS programme, Transport Canada's Civil Aviation Daily Occurrence Reporting System (CADORS), and each operator's safety management system (SMS) underpin voluntary reporting. Reports and cockpit-voice recordings are privileged under the Transportation Safety Board Act (TSB Act); whistleblower protection is provided by the Public Servants Disclosure Protection Act and the Canada Labour Code.

Year in review

From mid-2024 to late 2025, Canadian aviation law experienced an unusually active period, marked by major appellate decisions that defined the scope of regulatory authority, carrier liability, and accessibility obligations. The following decisions illustrate how Canadian courts and regulators have shaped key aspects of carrier liability, consumer protection, and competition during this period.

IATA v. Canadian Transportation Agency

In this landmark decision, the Supreme Court upheld the Air Passenger Protection Regulations (APPR) against a constitutional and treaty-based challenge brought by the International Air Transport Association (IATA) and several foreign carriers.^[5] The Court

held that the APPR were a valid exercise of Parliament's transport power and that their compensation regime does not conflict with the Montreal Convention. The ruling anchors consumer protection firmly within Canadian regulatory jurisdiction and confirms that the APPR operate as an administrative framework rather than a parallel cause of action for damages. For airlines, the case ends uncertainty about the APPR's legality but confirms a dual compliance burden: civil liability under Montreal and regulatory liability under the CT Act.

Air Canada v. Rose

The Federal Court of Appeal upheld a CTA order requiring Air Canada to accommodate a passenger using a large power wheelchair.^[6] The carrier had argued that substituting an accessible aircraft would cause undue hardship; the Court rejected this, finding that the company's scale and resources made accommodation feasible. The decision establishes a clear national precedent regarding the meaning of 'undue hardship' under the Accessible Transportation for Persons with Disabilities Regulations (ATPDR), compelling carriers to incorporate accessibility into their fleet planning and scheduling, rather than treating it as an ad hoc obligation.

N.S. v. Ukraine International Airlines

Arising from the 2020 downing of flight PS752 near Tehran, this appeal^[7] affirmed liability and removed Montreal Convention caps. The Ontario Court of Appeal found that Ukraine International Airlines was negligent in operating in a known conflict zone amid escalating hostilities and that its risk assessments were inadequate. The Court held that the loss was not 'accidentally unavoidable' within the meaning of Article 21(2) of the Convention and therefore damages were uncapped. The case sets an important precedent for carriers' operational-risk governance and for insurers assessing coverage in hostile regions.

Brink's Canada Ltd v. Air Canada

The Federal Court ruled that Air Canada's liability for the 2023 theft of gold and banknotes from its Toronto Pearson cargo facility is limited under the Montreal Convention.^[8] Brink's shipped approximately US \$15 million using the carrier's 'AC Secure' service and argued that notations such as 'valuable cargo' and 'special supervision requested' on the waybills met the requirement of Article 22(3) for a 'special declaration of interest'. The Court rejected this, holding that the Convention demands an explicit monetary declaration of value and payment of a supplementary charge to displace the limit. The higher AC Secure rate was a standard tariff, not an extra fee, so neither condition was met. Air Canada's liability was therefore capped at 22 special drawing rights (per kilogram.

The judgment confirms that premium-security services or 'valuable cargo' markings alone do not lift Montreal's limits, reinforcing the Convention's uniform approach to limitation of liability.

Gifford v. Air Canada

The Ontario Superior Court rejected certification of a proposed class action alleging that major carriers had conspired to limit transborder capacity between Canada and the United States, thereby inflating fares.^[9] The Court found no reasonable cause of action and insufficient common issues. The decision demonstrates the stringent evidentiary bar for competition-law class claims in the aviation sector and affirms the robustness of Canada's dual Competition Bureau/CTA oversight structure.

Moffatt v. Air Canada

The British Columbia Civil Resolution Tribunal found Air Canada liable for negligent misrepresentation after its website chatbot provided incorrect information about bereavement fares.^[10] The Tribunal held that the airline remained responsible for all information on its website, automated or otherwise. Although the damages were modest, the decision establishes a useful principle for carriers adopting AI tools and underscores the need for content alignment between digital interfaces and tariffs.

Legal framework for liability

Key legislation

The Aeronautics Act and the Canadian Aviation Regulations (CARs) form the backbone of Canadian safety law. The Canada Transportation Act (CT Act) and Air Transportation Regulations (ATR) govern economic licensing, insurance, and tariffs, while the Air Passenger Protection Regulations (APPR) and Accessible Transportation for Persons with Disabilities Regulations (ATPDR) provide consumer and accessibility standards enforced by the CTA. The Carriage by Air Act incorporates the Montreal Convention (1999).

Key treaties

Canada is a contracting state to the Montreal Convention (1999), the Cape Town Convention and Aircraft Protocol (2001), and the Tokyo Convention (1963). These instruments shape carrier liability, financing, and security obligations in international air transport.

International carriage

Under the Montreal Convention, carriers face strict liability of up to 128,821 SDR for passenger injury or death, and unlimited liability beyond that, unless they can prove that the damage was not due to negligence or was caused solely by a third party. For cargo, liability is limited to 22 SDR per kilogram unless a special declaration of value is made. The Convention provides exclusive jurisdictional fora (Article 33) and pre-empts overlapping tort actions.

Domestic and other non-Convention carriage

Domestic carriage is governed by each carrier's tariff (filed or maintained under the ATR) and provincial law, subject to federal paramountcy. Tariffs may mirror Montreal provisions by contract.

General aviation regulation

Canada's general-aviation sector – private owners, corporate flight departments, flying clubs, and aerial-work operators – is primarily regulated by Part VI of the CARs and, for complex private operations, Subpart 604 (private operators). Compliance with these rules often defines the common law standard of care in negligence suits.

Operating rules and standards

Part VI prescribes general operating and flight rule requirements, including airspace use, fuel reserves, de-icing, weather minima, equipment, and record-keeping. Journey logs, technical logs, and maintenance schedules provide the evidentiary backbone for liability defence. Standard 621 addresses obstruction marking and lighting, while Subpart 603 regulates special flight operations certificates (SFOCs) for air shows and aerial work events.

Private operator certificate (POC)

Subpart 604 requires operators of large, turbine, or pressurised aircraft used privately (not for hire) to hold a POC. The certificate encompasses operational specifications, training, and safety management components similar to those of commercial carriers. Audits test operational control, SMS maturity, and maintenance contracting.

Medical certification and pilot recency

Pilots must hold a valid Transport Canada medical certificate – category 1 (ATPL (airline transport pilot licence)), 2 (commercial pilot licence), 3 (PPL (private pilot licence)) or 4 (recreational). Medical lapses and failure to maintain biennial recency are recurring themes in general aviation litigation and insurance disputes.

Insurance requirements and maintenance

CAR 606.02 obliges every non-commercial aircraft operated in Canada to carry liability insurance, closing a gap for purely private operators. Policies generally mirror ATR minimums, including hull and passenger coverage, as well as third-party liability coverage proportionate to the weight. Maintenance may be performed by approved maintenance organisations (AMOs) or under owner-maintenance privileges, provided that record-keeping and inspection standards are met.

Ultralight and recreational aircraft

Ultralights are categorised into basic (operating without flight authority, limited to uncontrolled airspace) and advanced (compliant with LAMAC design standards).

Advanced operators must maintain airworthiness documentation and comply with modification-approval protocols. Courts treat adherence to manufacturer and Transport Canada maintenance schedules as evidence of reasonable care.

Special flight operations and RPAS interface

Airshows, fly-ins, and certain remotely piloted aircraft system (RPAS) beyond visual line of site operations require SFOCs. Applicants must provide risk assessments, site maps, safety distances, and emergency procedures. Under Part IX, RPAS operators must register each drone, hold pilot certificates (basic or advanced), and obtain NAV CANADA airspace authorisation.

Liability themes in general aviation

Negligence claims often hinge on compliance with the CARs: fuel planning, weather minima, maintenance records, and pilot currency. Courts consider regulatory compliance persuasive, though not conclusive, evidence of due diligence. Failures in documentation – such as log gaps, unsigned maintenance releases, and expired medicals – feature in provincial tort and insurance cases.

Passenger rights

Canada's passenger-rights regime, anchored in the APPR, is complemented by the ATR and the ATPDR. Following *IATA v. Canadian Transportation Agency*,^[11] the APPR are recognised as a valid regulatory framework operating alongside the Montreal Convention.

Scope and structure

The APPR apply to all flights to, from, and within Canada, including connections. Obligations differ by carrier size ('large' vs 'small') and by disruption category – within carrier control, within carrier control but required for safety, or outside carrier control. Each category dictates compensation, care, and refund duties.

Delays and cancellations

For disruptions within carrier control, large carriers owe compensation of C\$400 (three to six hours delay), C\$700 (six to nine hours delay), and C\$1,000 ($\geq$ nine hours delay). Small carriers owe C\$125, C\$250, and C\$500, respectively. Care standards – food, drink, communication, and accommodation where necessary – apply across all categories, including safety-related delays. Precise cause-coding, with supporting maintenance, weather, and crew reports, is critical to CTA adjudication.

Denied boarding

When bumping occurs within carrier control and not for safety reasons, compensation ranges from C\$900 (< six hours), C\$1,800 (six to nine hours), to C\$2,400 ($\geq$ nine hours).

Carriers must first solicit volunteers and provide them with clear notice of their rights. Documentation of offers and acceptance is decisive in Agency proceedings.

Tarmac delays

After three hours on the tarmac at a Canadian airport, passengers must be allowed to disembark unless safety, security, or customs rules prevent it. A 45-minute extension is allowed only if take-off is imminent and standards of treatment are maintained. Command decisions and timing must be logged contemporaneously.

Baggage and mobility aids

Carriers must refund baggage fees and reimburse interim expenses for delayed baggage. Compensation is capped by the Montreal Convention (~1,519 SDR). Mobility aids fall under ATPDR rules, which require prompt repair, replacement, or reimbursement and prohibit the arbitrary denial of carriage.

Seating of children and communication duties

Children (< 14 years) must be seated near accompanying adults at no charge, with proximity defined by age. Carriers must communicate disruption information in plain language and accessible formats.

Refunds and rebooking

For cancellations or long delays, carriers must rebook on their own or partner flights or refund if rebooking standards cannot be met. If a refund is chosen for a 'within control but not safety' event, compensation remains payable. The CTA expects evidence of inventory searches, interline attempts, and timing of offers.

Enforcement and cost recovery

The CTA enforces compliance through administrative monetary penalties (AMPs), compliance orders, and cost recovery measures. A C\$790 processing fee is expected to be implemented in the coming months per complaint proceeding to decision, incentivising early resolution. Forthcoming amendments will increase AMP ceilings and codify binding member interpretations to streamline precedent.

Accessibility integration

The ATPDR impose comprehensive obligations on carriers, airports, CATSA, and CBSA to ensure barrier-free travel. The *Rose* decision confirms that accessibility must be embedded in planning and scheduling, rather than being handled reactively. Future CTA guidance may address mobility-aid repair standards, substitute-aircraft timelines, and station-level coordination.

Tariffs and transparency

The ATR require tariffs to be clear, reasonable, and consistent with APPR/ATPDR standards. International tariffs must be filed with the CTA. Any discrepancy between tariffs and public communications exposes carriers to enforcement. Maintaining version-controlled tariffs and aligning digital content are best practices.

Interplay with Montreal Convention

The APPR create administrative obligations; the Montreal Convention governs damages. Following *IATA v. CTA*, Canadian courts recognise both regimes as complementary: passengers pursue compensation through the CTA, while damages under Montreal remain judicial. Carriers must therefore manage dual documentation streams – regulatory and civil.

Together, these instruments comprise a detailed consumer protection and accessibility regime that defines modern airline governance in Canada.

Licensing of operations

Licensed activities

All commercial air services require a licence under the CT Act. The CTA issues:

1. domestic licences for services within Canada;
2. non-scheduled international licences for charters; and
3. scheduled international licences for bilateral routes.

Applicants must demonstrate Canadian ownership and control in fact, possess adequate financial resources, provide proof of insurance meeting ATR minimums, and hold a valid air operator certificate (AOC) issued by Transport Canada. Licences are revocable for a lapse in any of those criteria.

Ownership rules

A 'Canadian' carrier under Section 55 of the CT Act is one that is incorporated or formed under Canadian law and is controlled in fact by Canadians, with at least 51 per cent of the voting interest held by Canadians. Amendments permit up to a 49 per cent aggregate foreign voting interest, but no single foreign investor or airline may hold more than 25 per cent. The CTA assesses control through shareholder agreements, financing arrangements and veto rights. (*Air Canada (Re)*^[13]).

Foreign carriers

Foreign airlines must obtain a CTA licence aligned with bilateral rights and a Transport Canada foreign air operator certificate confirming insurance, AOC equivalence and security

clearances. The International Operations and Standards Division monitors reciprocity with International Civil Aviation Organization (ICAO) States.

Timelines and practice

Assuming complete documentation is provided, licensing typically requires 60 to 90 days. Financial fitness reviews or AOC verifications may extend that period.

Safety

Canada's safety regime is based on the Aeronautics Act and the CARs, which are administered by the TCCA. Large carriers operating under Subpart 705 must maintain an approved SMS covering risk identification, reporting, and internal audit.

The TSB investigates accidents independently under the TSB Act. Cockpit-voice recordings and occurrence statements are privileged and inadmissible in civil proceedings except under narrow statutory exceptions.

Maintenance must be performed by approved maintenance organisations or supervised by aircraft maintenance engineers. The TCCA enforces its regulations through administrative monetary penalties and certificate actions. Recurrent training and duty-time compliance are audited under risk-based oversight programmes.

Insurance

Types and levels

ATR Part VII requires minimum liability insurance by aircraft weight and operation: for example, C\$300 000 per seat (up to C\$300 million for large commercial aircraft). Foreign operators are required to file certificates with the CTA; policy cancellation necessitates a 60-day notice.

Compliance evidence and exemptions

Compliance is verified by CTA staff during the licensing and renewal process. Limited exemptions apply to state aircraft and certain experimental operations.

Emerging coverage trends

Airlines routinely purchase higher limits to address potential exposure from Montreal Convention claims and regulatory liability under the APPR and ATPDR. Policies increasingly include regulatory defence extensions and cyber endorsements. High-value cargo coverage and declared-value clauses are under renewed scrutiny following *Brink's Canada Ltd v. Air Canada*.^[15]

Competition

The Competition Act applies to aviation through two regimes: criminal (Section 45, price-fixing and market allocation) and civil (Section 90.1, non-criminal collaboration). Abuse of dominance (Section 79) and merger control (Part VIII) are enforced by the Competition Bureau.

Mergers above thresholds require pre-notification. The Minister of Transport may approve a transaction in the public interest, even if the Competition Bureau identifies anti-competitive effects, as occurred in Air Canada/Transat (2021) and, more recently, in WestJet/Sunwing (2023), which was cleared subject to conditions aimed at preserving service levels and employment. Carriers should document consumer benefits, capacity rationales, and connectivity gains in any joint venture or codeshare filing.

In *Gifford v. Air Canada*,^[16] the Ontario Superior Court refused certification of a class action alleging transborder capacity coordination, finding no common issues or plausible cause of action. The decision highlights the challenges of proving collusion in a heavily regulated sector and underscores that competition policy and aviation licensing operate in tandem under Canadian law.

Wrongful death

For international carriage, as defined in Article 1 of the Montreal Convention (1999), liability is governed exclusively by the Convention and the Carriage by Air Act, which gives it force of law in Canada. A flight is international when, under the contract of carriage, the points of departure and destination are in the territories of two State Parties, or when there is an agreed stopping place in another State Party. Where the Convention applies, it pre-empts local causes of action and provides the sole basis for recovery, with jurisdiction limited to the fora specified in Article 33.

For domestic carriage – flights entirely within Canada – or general-aviation flights falling outside the Convention’s definition of international carriage, liability is determined by provincial law and the carrier’s tariff conditions. In such cases, plaintiffs may invoke provincial negligence and fatal accident statutes directly.

Under the Montreal regime, a carrier is strictly liable for proven damages arising from the death or bodily injury of a passenger on board or during embarkation or disembarkation, up to 128,821 SDR. Above that limit, the carrier may avoid further liability only by proving that the damage was not due to its negligence or was solely the result of a third party’s act or omission. Non-pecuniary damages (for pain, suffering, or loss of companionship) are recoverable within these limits, but the Convention does not authorise punitive or exemplary awards.

In *N.S. v. Ukraine International Airlines*,^[17] the Ontario Court of Appeal held that these limits do not apply where the carrier’s conduct amounts to wilful misconduct or recklessness with knowledge that damage would probably result, as described in Article 22(5). The Court concluded that operating flight PS752 from Tehran amid known hostilities satisfied that threshold, entitling victims’ families to uncapped recovery. The decision clarifies that

while the Convention establishes uniform limits, it preserves unlimited liability in cases of reckless or intentional conduct.

Typical recoverable heads of damage under both the Convention and domestic law include loss of dependency (income and services), funeral expenses, and non-pecuniary loss for care, guidance, and companionship. In most provinces, recent awards for non-dependency loss range from C\$25,000 to C\$150,000 per eligible family member, adjusted for inflation. Provincial health insurers and workers' compensation boards may exercise statutory subrogation rights to recover medical or related costs from tortfeasors. Although Canada has no statutory condolence-payment scheme, operators generally provide family-assistance services consistent with Transport Canada and TSB coordination guidelines.

Establishing liability and settlement

Procedure

Civil claims are heard in provincial superior courts or (rarely) the Federal Court, while the CTA addresses regulatory complaints. Montreal Convention actions must be commenced within two years of arrival or the expected arrival date. Domestic limitation periods are generally two years from the date of discovery, but this varies from province to province. The APPR's proposed C\$790 fee and structured complaint pathway encourage early settlement of clear-liability files.

Joinder and allocation

Plaintiffs routinely join carriers, airport authorities, ground handlers, manufacturers and lessors. Fault is apportioned under provincial contribution statutes, but contractual indemnities often control economic burden. In cargo claims, Montreal limits apply absent a declared value; *Brink's Canada Ltd v. Air Canada*^[18] illustrates how courts interpret the temporal scope of 'carriage by air'.

Carriers' liability to passengers and third parties

For international carriage, liability is governed exclusively by the Montreal Convention. For domestic flights, provincial law and tariffs apply. Negligence may remove liability caps, as in *N.S. v. UIA*.^[19] Third-party claims by bystanders follow ordinary tort principles; public authorities retain limited immunity.

Product liability

Canadian product liability is based on negligence and breach of warranty, rather than strict liability. Manufacturers, suppliers, and maintenance organisations may be liable for injury or damage caused by defective aircraft or components. Plaintiffs must prove defect, fault, and causation, often through expert evidence. Compliance with the CARs and Transport Canada approvals is persuasive but not conclusive evidence of due diligence.

In the common law provinces, liability arises from negligent design, manufacture, or failure to warn. In Quebec, Articles 1468–1473 of the Civil Code of Québec create a presumption of fault when a product defect causes harm, shifting the burden to the manufacturer. The province's legal warranty of quality offers an additional contractual remedy.

Limitation periods are generally (but not always) two years from discoverability. Canada has no federal statute of repose equivalent to the US General Aviation Revitalization Act; however, ultimate limitation periods in several provinces serve a similar function. Aviation product claims are expert-intensive, and while regulatory compliance remains the best defence, courts may still find liability for defects that could reasonably have been avoided or warned against.

Compensation

Quantum turns on causation and proof of loss. Montreal Convention passenger injury claims follow the two-tier system; cargo claims are capped by SDRs unless declared higher. Provincial social-security schemes may recoup benefits from tortfeasors.

Drones

Regulatory framework

Part IX of the CARs governs RPAS weighing between 250 g and 25 kg. All RPAS must be registered with Transport Canada and display a registration mark. Operators are required to hold either basic or advanced certification. Advanced operations demand a second written examination, a flight review with an accredited reviewer, and – where applicable – a manufacturer's declaration of compliance for the intended environment.

Beyond-visual-line-of-sight (BVLOS) operations

Flights beyond visual line of sight, operations over people or in controlled airspace, and carriage of dangerous goods require a special flight operations certificate (SFOC-RPAS). Applicants must file a risk assessment, procedures manual, and maintenance program. Safety cases normally include detect-and-avoid technology, lost-link protocols, and communications redundancy.

Airspace integration

NAV CANADA's NAV Drone digital platform issues real-time authorisations for controlled airspace and coordinates deconfliction with manned aviation. Airport authorities are developing standard operating procedures for construction, inspection, and wildlife control flights to prevent runway incursions.

Insurance and liability

Although the ATR does not yet prescribe RPAS insurance, commercial operators are generally required – by contract or provincial regulation – to hold at least C\$100,000 in third-party liability coverage. High-risk operations (BVLOS or urban) typically require higher limits. Uninsured operation of an RPAS that endangers safety constitutes an offence under the Aeronautics Act.

Enforcement and penalties

Transport Canada may issue administrative monetary penalties (up to C\$15,000 per violation) and suspend pilot certificates or SFOCs. Serious violations – such as reckless operation endangering aircraft – may attract prosecution.

Emerging trends

Canada's RPAS Task Force is consulting on the integration of remote identification and U-space/unmanned traffic management (UTM) services. Commercial drone-delivery pilots continue in northern regions under specific SFOCs. Privacy, data governance, and cybersecurity compliance are becoming central to contractual risk management.

Voluntary reporting

Statutory framework and purpose

The TSB Act establishes a non-punitive investigation regime for aviation occurrences. Sections 29–30 protect occurrence statements and cockpit recordings from disclosure in civil or regulatory proceedings, reflecting a 'just-culture' principle: information collected to improve safety should not be used for blame. These protections are intended to preserve candid reporting and ensure that lessons from occurrences translate into systemic safety improvements.

SECURITAS confidential-reporting programme

Through SECURITAS, anyone in the aviation community may report safety concerns anonymously. The TSB reviews each report and, when appropriate, refers it for corrective action. Identities remain confidential, and only de-identified summaries are released. The programme has revealed recurring issues, including fatigue, runway incursions, and maintenance resource shortages.

CADORS and Transport Canada oversight

Transport Canada's Civil Aviation Daily Occurrence Reporting System (CADORS) compiles reports from operators, ATC, and airports. Redacted public data support risk-based oversight and enforcement. Operators should monitor entries related to their operations to ensure accuracy and completeness.

Safety management systems (SMS)

Under Subpart 705 of the CARs, commercial operators must run an SMS with hazard-reporting and investigation processes that protect reporters and record corrective action. Weak internal reporting often features in TSB findings; regulators expect carriers to maintain a visible reporting culture.

Confidentiality and use in litigation

Courts strictly apply the TSB Act's privileges. In *Canadian National Railway Co. v. Canada (Transportation Safety Board)*,^[20] the court held that privilege over on-board recordings is absolute, except where a statute allows disclosure. Attempts to compel SMS records are rarely successful and are often subject to confidentiality orders.

Whistle-blower and anti-retaliation protection

Employees are protected from reprisals under the Canada Labour Code and, in the public sector, the Public Servants Disclosure Protection Act.

Special considerations

Blue Sky policy and bilateral access

Canada's Blue Sky Policy continues to expand the network of liberalised air-service agreements. While promoting open skies, the policy reserves ministerial discretion to consider public-interest factors such as connectivity, safety, and reciprocity. Access to key hubs remains conditioned by slot availability, security clearances, and environmental approvals.

Airport governance and charges

Airports operate under long-term federal leases. They finance capital projects through user fees and debt markets, subject to ministerial approval for major infrastructure. Stakeholder consultations on fee structures and slot allocation have become central to balancing capacity with affordability.

Security screening reforms

CATSA is modernising its screening technology and performance standards through the Enhanced Aviation Security Programme. Carriers are expected to coordinate with CATSA on queue management and staffing to mitigate delay-related APPR exposure.

Outlook and conclusions

Policy outlook and legislative trajectory

Over the next cycle, Canadian aviation policy will consolidate around four areas: consumer protection, accessibility, decarbonisation, and integration of drones and advanced air mobility.

Consumer protection

On consumer protection, the CTA is refining its complaint system to prioritise throughput and transparency. The proposed C\$790 fee embeds cost recovery and encourages early settlements. Tariff oversight and publication of concise, reasoned decisions are expected to expand.

Accessibility

Accessibility remains a core priority. Following *Air Canada v. Rose*,^[21] large carriers must demonstrate proactive planning for accommodation. Expect further guidance on mobility-aid repair, substitute-aircraft obligations, and training verification. Airports, CATSA, and the CBSA will continue to be treated as joint service providers subject to the same accessibility standards.

Decarbonisation

Canada's alignment with the ICAO's CORSIA scheme and its net-zero-by-2050 commitment imply growing emphasis on sustainable aviation fuel (SAF). Future Transport Canada guidance may require carriers to report SAF usage and integrate emissions-reduction clauses into supply contracts. Airports are embedding carbon-management metrics into expansion approvals, and NAV CANADA's performance-based navigation initiatives support fuel-burn reduction.

Drones and advanced air mobility

For drones and advanced air mobility, forthcoming amendments will focus on BVLOS integration, remote identification, and UTM coordination. Authorisations will be based on demonstrated safety management competence and robust data governance. NAV CANADA's federated digital clearances will eventually normalise small-scale RPAS activity at major aerodromes.

Competition and investment policy

Competition and investment policy will also evolve. Amendments to the Competition Act broaden investigative powers and private-action rights. Joint ventures and codeshares will require detailed evidence of consumer benefit to obtain ministerial approval. The CTA will maintain scrutiny of Canadian control in fact where ownership or governance changes are contemplated.

Conclusion

Overall, regulators are converging on documentation and demonstrable reasoning as the key measure of compliance. Whether the subject is consumer compensation, accessibility, emissions, or airspace integration, the operator able to 'show its work' through contemporaneous records will be best protected.

Canadian aviation law has entered a period of consolidation, marked by legislative stability and sharper enforcement expectations. Three themes dominate:

1. Consumer-protection entrenchment. The APPR, upheld in *IATA v. CTA*,^[22] are now an accepted element of carrier operations. Cost-recovery fees and higher AMPs will drive internal systems for early resolution and precise cause coding.
2. Accessibility mainstreaming. *Air Canada v. Rose*^[23] makes accommodation an operational, not optional, responsibility. Fleet planning, contracts, and station management must internalise accessibility costs and timelines.
3. Operational governance and documentation. Flight PS752 and *Brink's*^[24] illustrate judicial insistence on traceable decision-making. Safety, security, and consumer protection now converge on evidence discipline – the paper trail is the compliance.

Canada's framework rewards transparency and foresight. Operators that integrate Montreal Convention compliance, APPR procedures, accessibility planning, and SMS reporting within a single governance structure will minimise enforcement risk and strengthen credibility with regulators and passengers.

Endnotes

- 1 *International Air Transport Association v. Canadian Transportation Agency* 2024 SCC 30 (CanLII). [^ Back to section](#)
- 2 *Air Canada v. Rose* 2025 FCA 67 (CanLII). [^ Back to section](#)
- 3 *N.S. v. Ukraine International Airlines* 2025 ONCA 587 (CanLII). [^ Back to section](#)
- 4 *Brink's Canada Ltd v. Air Canada* 2025 FC 110 (CanLII). [^ Back to section](#)
- 5 *IATA v. Canadian Transportation Agency* 2024 SCC 30 (CanLII). [^ Back to section](#)
- 6 *Air Canada v. Rose* 2025 FCA 67 (CanLII). [^ Back to section](#)
- 7 *N.S. v. Ukraine International Airlines* 2025 ONCA 587 (CanLII). [^ Back to section](#)
- 8 *Brink's Canada Ltd v. Air Canada* 2025 FC 110 (CanLII). [^ Back to section](#)
- 9 *Gifford v. Air Canada* 2025 ONSC 3335 (CanLII). [^ Back to section](#)
- 10 *Moffatt v. Air Canada* 2024 BCCRT 149 (CanLII). [^ Back to section](#)

- 11 *Moffatt v. Air Canada* 2024 BCCRT 149 (CanLII). [^ Back to section](#)
- 12 *Air Canada (Re)* Decision No. 198-A-2003 (CTA). [^ Back to section](#)
- 13 *Brink's Canada Ltd v. Air Canada* 2025 FC 110 (CanLII). [^ Back to section](#)
- 14 *Gifford v. Air Canada* 2025 ONSC 3335 (CanLII). [^ Back to section](#)
- 15 *N.S. v. Ukraine International Airlines* 2025 ONCA 587 (CanLII). [^ Back to section](#)
- 16 *Brink's Canada Ltd v. Air Canada* 2025 FC 110 (CanLII). [^ Back to section](#)
- 17 *N.S. v. Ukraine International Airlines* 2025 ONCA 587 (CanLII). [^ Back to section](#)
- 18 *Canadian National Railway Co. v. Canada (Transportation Safety Board)* 2018 FCA 69 (CanLII). [^ Back to section](#)
- 19 *Air Canada v. Rose* 2025 FCA 67 (CanLII). [^ Back to section](#)
- 20 *IATA v. Canadian Transportation Agency* 2024 SCC 30 (CanLII). [^ Back to section](#)
- 21 *Air Canada v. Rose* 2025 FCA 67 (CanLII). [^ Back to section](#)
- 22 *Brink's Canada Ltd v. Air Canada* 2025 FC 110 (CanLII). [^ Back to section](#)

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Introduction

In mainland China, the Civil Aviation Law (CAL) is the main law regarding civil aviation. The CAL was issued by the Standing Committee of the National People's Congress and came into effect on 1 March 1996, and it has general binding force. The 215 articles of the CAL are categorised into 16 chapters.

Civil aviation activities are also subject to other important laws such as the Civil Code of the People's Republic of China (the Civil Code), the Corporate Law and the Criminal Law, as well as administrative regulations of the State Council and ministerial regulations of ministries and commissions of the State Council.

These normative laws and regulations together constitute China's civil aviation legal system.

Civil aviation regulatory regime

Pursuant to the authorisation of the CAL and the State Council, the Civil Aviation Administration of China (CAAC) under the Ministry of Transport (MOT) is the competent authority in civil aviation responsible for:

1. the development, implementation and supervision of strategy and the planning of civil aviation industry development;
2. the drafting of relevant laws, regulations, policies and standards;
3. supervision of the air transport and general aviation (GA) market, civil aviation safety and ground safety, civil airport construction and safe operation;
4. civil air traffic management; and
5. civil aviation emergency response.

Under the CAAC, there are seven regional administrations (RAs) in China, namely in the north, east, northeast, northwest, southwest, central and southern, and Xinjiang regions, which are responsible for regional issues as authorised by the CAAC.

Market access

The Foreign Investment Law and its implementing regulations came into effect as of 1 January 2020. This law and its implementing regulations have strengthened the principles of promoting and protecting foreign investment in China generally, which may also have an impact on investment in the aviation industry.

Chinese domestic investment can be directed towards areas such as public air transportation, GA, civil airports and air traffic management systems. As with certain other sectors, aviation enterprises must be wholly state-owned or state-controlled (including relatively controlled). For example, Air China, China Southern Airlines and China Eastern Airlines must remain wholly state-owned or state-controlled.

Foreign investments must comply with Chinese laws and regulations, as well as with rules and policies established by related ministries and commissions of the central government, such as the Catalogue of Industries for Encouraged Foreign Investment (2022) (which came into effect on 1 January 2023) and the Special Administrative Measures for Admission of Foreign Investment (Year 2024) (the Negative List), which may be amended from time to time, both of which are published by the National Development and Reform Commission (NDRC) and Ministry of Commerce (MOFCOM). Under the terms of the Negative List, the special administrative measures for foreign investment in the aviation industry are as follows:

1. public air transport companies must be controlled by Chinese entities, and a single foreign investor and its affiliates shall not hold more than 25 per cent of the equity. The legal representative must be a citizen of Chinese nationality;
2. the legal representative of a GA company must be a citizen of Chinese nationality. GA companies operating in the agriculture, forestry and fishery sectors are limited to joint-venture operations and in conjunction with others, with Chinese parties as the controlling shareholders;
3. the construction and operation of civil airports must be controlled by Chinese parties; and
4. foreign investment in air traffic control is prohibited.

Areas other than those on the Negative List are administered on the principle of consistency between domestic and foreign investment. On the basis of this principle, the Provisions on Foreign Investment in the Civil Aviation Industry and their six supplementary provisions were abolished by the MOT, NDRC and MOFCOM on 30 December 2020.

Slots

The Methods for Management of Civil Aviation Slots, which were enacted in 2018, still constitute one of the most important regulations of slots management in China. The Methods specify the exchange and swap of slots, code sharing, joint operation, transfer, voluntary return and revocation of slots. As of 21 March 2023, the RAs are no longer responsible for specific coordination, allocation and supervision of the use of slots; this responsibility has been transferred to the newly established Slot Management Committee of the CAAC.

Treaty-based commitments regarding transit and traffic rights

Regarding transit and traffic rights, China joined the Convention on International Civil Aviation (the Chicago Convention) in 1944.

Interests in aircraft equipment

China has joined the Cape Town Convention. In addition, in accordance with Chinese law, rights in aircraft (including civil aircraft structure, engines, propellers, radio devices and any other equipment therein) include rights of ownership, possession and mortgage as

well as lien, which applies to claims for compensation for the rescue and salvage of an aircraft and claims for costs for the preservation and maintenance of aircraft. The CAAC is in charge of the work of the registration of rights in civil aircraft.

The relevant finance parties may also register their rights on the unified registration system established by the Credit Reference Centre of the People's Bank of China.

Government policy and state aid

Pursuant to the Interim Measures for the Collection, Use and Management of the Civil Aviation Development Fund by the Ministry of Finance of China, which became effective on 1 April 2012, a contribution towards aviation development funding is collected from passengers taking flights in China, as well as air transport enterprises registered and established within the territory of China and engaged in passenger and cargo transport business with China's air route resources and GA enterprises engaged in business flights. The Civil Aviation Development Fund will be used in, inter alia, the construction of civil aviation infrastructure, regional aviation and GA development, civil aviation-related energy conservation and emission reduction, and research and development of key science and technology regarding civil aviation.

In recent years, with the expansion of the application of the public-private partnership mechanism in public services and infrastructure construction, promoted by the NDRC, market access for the construction and operation of civil aviation airports has been further liberalised and greater engagement of social capital has been encouraged in this area, which was previously mainly invested in by the government or state-owned enterprises.

Labour and employment issues

There are no specific stipulations in the CAL regarding labour and employment issues, which are subject to China's Labour Law, the Labour Contract Law and its Implementation Regulations. For temporary, auxiliary or substitution positions, employees may be sent to airports or airlines by labour dispatch (i.e., through a human resources agency).

Year in review

To date, several events of far-reaching significance have taken place, as set out below.

In February 2025, the draft revision of the CAL was deliberated during the 14th Session of the Standing Committee of the National People's Congress. In June 2025, the second draft version of the CAL was released for a new round of public consultation, with a 30-day feedback period. Incorporating public input, the forthcoming amendments to the newly revised CAL are expected to include provisions to strengthen aviation transport safety, enhance the protection of passenger rights and interests, and improve alignment with relevant laws and international conventions. Concurrently, China will bolster the development of civil aviation infrastructure, encourage and support scientific research and education in civil aviation, and intensify efforts to cultivate professionals in the field.

The ongoing evolution of new-generation logistics sectors – e-commerce, express delivery, and cold chain – requires the air cargo industry to align with contemporary dynamics. In response, the MOT issued the Administrative Provisions on Cargo Transport by Civil Aviation (CCAR-275), which came into force on 1 December 2024, repealing the 1996 Rules for Domestic Cargo Transport by Civil Aviation of China (CAAC Order No. 50) and the 2000 Rules for International Cargo Transport by Civil Aviation of China (CAAC Order No. 91). The new Provisions, organised into six chapters and 45 articles, are designed to bolster safety supervision at key stages, elevate freight service quality, and promote intelligent logistics by encouraging the use of electronic documents, signatures, and identification, thereby facilitating the development of a modern civil aviation cargo transport system that is both safe, reliable, and technologically advanced. A similar consolidation and revision model has been adopted in the passenger transport sector. In 2021, the MOT promulgated the Administrative Provisions on Public Air Transport Passenger Services (CCAR-273), thereby repealing and superseding several prior regulations: the 1996 and 2004 Rules of China on the Domestic Civil Air Transport of Passengers and Luggage (CAAC Order No.49 and 124), as well as the 1997 Rules of China on the International Civil Air Transport of Passengers and Luggage (CAAC Order No.70). This regulatory update was implemented to ensure passenger safety and elevate the quality of service standards within the industry.

In the field of general aviation, the CAAC introduced a series of new regulations in 2025 to continuously enhance the regulatory framework. In June 2025, the CAAC issued the Advisory Circular on Aerial Tours and Experience Flights (AC-91-FS-033 R3), which establishes a comprehensive regulatory framework centred on the principles of safety and standardisation. In September 2025, the CAAC promulgated the Interim Measures for the Management of the Aerial Tourism Market and the Interim Measures for the Management of Parachuting Flight Services Market. These Measures set forth detailed provisions on various critical matters, including market entry requirements for enterprises, service standards for aerial tourism, price management, consumer rights protection, safety requirements, contractual obligations, and supervision and inspection. As significant initiatives by the CAAC to actively foster the safe and high-quality development of the low-altitude economy, these documents serve to regulate market order, optimise the consumption environment, protect consumer rights, and uphold market fairness, thereby providing a robust institutional guarantee for the long-term, sustainable, and healthy development of the low-altitude tourism sector.

Legal framework for liability

The responsibilities of the public aviation transport carrier and the actual carrier are stipulated in Chapter IX, Sections 3 and 4 of the CAL. Pursuant to the CAL, a carrier should assume liability for casualties among passengers owing to accidents on an aircraft or during their boarding or alighting. The carrier is not liable for casualties arising entirely from health reasons on the part of passengers. A carrier should assume liability for the destruction of cargo resulting from accidents during a flight. However, the carrier is not liable for the destruction, loss of or damage to cargo if the loss or damage can be proved to have resulted entirely from certain factors.

Liability for damage to third parties on the ground is specified in Chapter XII of the CAL. According to the CAL, the victims of personal injury, death or loss of property on the ground (including water surface) caused by in-flight civil aircraft, or by people or things falling from in-flight aircraft, have the right to be awarded damages, unless the injury or damage is not a direct result of an incident of this kind or is a result of the normal passage of the aircraft in conformity with the state rules of air traffic.

In addition, in 1958, China joined the Convention for the Unification of Certain Rules for International Carriage by Air signed at Warsaw on 12 October 1929 (the Warsaw Convention) and in 2005 joined the Convention for the Unification of Certain Rules for International Carriage by Air signed at Montreal on 28 May 1999 (the Montreal Convention).

International carriage

China is a party to the following multilateral agreements relating to international carriage: the Convention on International Civil Aviation, the Warsaw Convention and its Hague Protocol, and the Montreal Convention.

In respect of international carriage, the CAL stipulates that in the event of a conflict between the CAL and an international treaty to which China is a signatory or party the provisions of the international treaty shall prevail, except where China has made a reservation to the treaty.

Internal and other non-convention carriage

Non-convention carriage responsibilities are subject to those provisions regarding international transportation in the CAL and bilateral agreements by and between China and a foreign country.

General aviation regulation

Civil liability

For GA, the CAL only provides for civil liability to third parties on the ground for damages arising from damage caused by aircraft (including GA aircraft), and for administrative and criminal responsibility for violations of laws and for endangering flight safety.

Pursuant to Article 1238 of the Civil Code, where a civil aircraft causes any harm to another person, the operator of the civil aircraft shall assume the tort liability, whether or not they are the passenger or the third party on the ground. However, if it can be proved that the damage was caused intentionally by the victim, the operator shall not be liable.

In April 2022, the MOT released the General Aviation Security Rules (CCAR-333), clarifying that operators shall shoulder primary responsibility for GA security and are allowed to entrust security service agencies to implement specific security measures by signing security agreements without transferring their legal responsibilities. The Rules also put forward higher requirements for the safety inspection and transportation management of GA activities such as passenger and cargo carriage.

Administrative liability

The General Operating and Flight Rules^[1] of the CAAC provide regulations on the general operation and flight of civil aircraft (including rotorcraft and microlight aircraft) covering, inter alia, airworthiness, flight rules, maintenance, equipment, instrumentation and certification. Pursuant to the Rules, in the event of a violation of the Rules, the CAAC has the right to order the immediate cessation of the violating activities and impose penalties such as a warning, fine, temporary suspension or revocation of licences, or a combination of these.

The Measures for the Implementation of Civil Aviation Administrative Penalties^[2] provide the types of administrative penalties and specify how the implementation of penalties is to be commissioned by civil aviation administrations, as well as the conditions to be satisfied by the commissioned organisations. At the end of 2024, the CAAC promulgated the latest revised version of the Measures, which strictly implements the relevant provisions of the Law of the PRC on Administrative Penalties and adapts its institutional framework to the context of civil aviation. Key improvements include refining specific procedural aspects, such as introducing a dedicated chapter on hearing procedures to standardise their conduct. Furthermore, the revision strengthens the protection of the rights and interests of parties subject to administrative penalties.

Passenger rights

Regarding compensation for flight delays, in accordance with Article 126 of the CAL, the carrier should assume liability for the losses to passengers or of baggage or cargo caused by delays in air transport. However, the carrier will not be liable if there is evidence that necessary measures to avoid the losses were taken by the carrier or its employees or agents or that it was impossible to take such measures (e.g., in cases of losses caused by bad weather or air traffic control).

The Regulations on the Management of Flight Regularity, which came into effect on 1 January 2017, apply to all Chinese carriers and foreign carriers departing from mainland China airports or with stopovers at the airports of mainland China. The Regulations set out airlines' obligations on maintaining flight regularity and providing necessary services and support to passengers in the case of flight delays or cancellations. Carriers must state clearly in their general conditions of carriage details of their service provision in the event of flight delays or cancellations.

In terms of the carriage of disabled persons, according to the Measures of Air Transportation of Disabled Passengers by the CAAC Transportation Department, the carrier must not refuse to carry a disabled passenger who meets the requirements for boarding on the basis that their appearance or involuntary behaviour owing to their disability is likely to cause offence, annoyance or inconvenience to the crew or other passengers, unless otherwise stipulated in the law or for safety reasons. Carriers, airports and airport ground service agents are required to provide necessary assistance and equipment at terminal buildings and in the cabin. In particular, service dogs are allowed to accompany disabled passengers during a flight.

Other legislation

Pursuant to the Civil Code and the Environmental Protection Law, those who cause environmental pollution must undertake to eliminate the pollution and provide compensation to those who have suffered harm as a result of it. In addition, according to the Law on Prevention and Control of Pollution from Noise, which came into force on 5 June 2022, civil aircraft shall comply with the relevant noise requirements under the airworthiness standards prescribed by the civil aviation authorities. Where the civil airport, air transport enterprise, or GA enterprise fails to take measures to prevent and mitigate noise pollution from civil aircraft, the violator shall be obliged to make corrections and may be fined by the relevant authorities. On 12 March 2024, the CAAC issued three industry standards: Aircraft Noise Measurement and Evaluation, Evaluation Method of Aircraft CO₂ Emissions, and Aircraft Engine Emission Measurement and Evaluation. These standards provide clear qualification and evaluation criteria, including specific technical requirements and diagrams, to standardise the measurement and evaluation of aircraft noise and emissions.

Pursuant to the Consumer Rights Protection Law, where business operators (e.g., air carriers) knowingly provide defective goods or services for consumers, thereby causing death or serious health damage to consumers or other victims, the victims are also entitled to demand punitive damages of up to twice the losses suffered.

According to the Cybersecurity Law, network operators (e.g., an airline company that has its own booking website) must not divulge, tamper with or damage the personal information they have collected and must not provide the personal information to others without the consent of the persons whose data is collected. However, circumstances in which information was processed and could not be recovered, making it impossible to match the information with specific persons, would be an exception.

The Personal Information Protection Law came into effect on 1 November 2021 and provides rules on the processing of personal information, covering, inter alia, rights of individuals, obligations of personal information processors, rules of cross-border provision of personal information, and legal liability for violations.

According to the Data Security Law, which became effective from 1 September 2021, business entities (e.g., air carriers) must adopt lawful and proper methods to collect data, establish data security management systems and adopt technical measures to ensure data security when conducting data handling activities. Moreover, they must not provide any foreign judicial body or law enforcement body with any data stored within the territory of China without the prior approval of the competent authority.

Measures for the Standard Contract for Outbound Cross-border Transfer of Personal Information came into effect on 1 June 2023; they apply to the provision of personal information by a personal information processor to any recipients outside the territory of China under a standard contract for outbound cross-border transfer of personal information entered into with such overseas recipients.

Licensing of operations

Licensed activities

To set up a public air transportation enterprise, an applicant must first obtain an authorisation for its preparations for establishment and, within two years thereafter, apply to the local State Administration for Market Regulation (SAMR) for its company business licence before obtaining an air operator's certificate (AOC) from the CAAC and starting formal operations.

To set up a GA enterprise, an applicant must apply to the local SAMR for its company business licence and apply to an RA for an AOC for GA. As to GA operation requirements, the GA enterprise must be a legal person and the legal representative must be a Chinese citizen. It must have at least two airworthy aircraft registered in China for carriage of passengers for reward (or at least one airworthy aircraft registered in China for carriage of persons and other activities for reward) and have qualified personnel.

Services operated by an established public air transportation or GA enterprise requiring a licence include operation specifications of carriers, scheduled and unscheduled domestic and international air transportation, dangerous goods transportation and airport construction and operation.

According to the List of Administrative Licensing Items Set by Laws, Administrative Regulations, and the Decisions of the State Council (2023 Edition) issued by the State Council, the merger, reorganisation and restructuring of civil aviation enterprises and airports are no longer subject to administrative licensing. Therefore, in May 2023, the MOT abolished the Regulations on the Administration of Merger, Reorganisation, and Restructuring of Civil Aviation Enterprises and Airports and changed the approval process to record filing. To strengthen such record-filing management, the CAAC issued the Administrative Measures for the Record-filing of the Merger, Reorganisation, and Restructuring of Civil Aviation Enterprises and Airports in December 2023. The merger, reorganisation and restructuring of civil aviation enterprises and airports shall comply with the relevant regulations on domestic investment in the civil aviation industry and special administrative measures for foreign investment (the Negative List) and shall be recorded with the RAs where they are located.

Ownership rules

The Civil Aircraft Nationality Registration Ordinance of China and the Regulations on the Civil Aircraft Nationality Registration provide that civil aircraft owned by Chinese state institutions, Chinese corporations and individuals must be registered in China. Civil aircraft must not have dual nationality and civil aircraft nationality registration must not be used as evidence of ownership.

For ownership registration, the following documents are required:

1. the individual identification or business certificate;
2. the nationality registration certificate; and
3. documentary proof that the ownership has been obtained.

In December 2020, according to Article 12 of the Decision of the State Council on Amending and Abolishing Some Administrative Regulations,^[3] the Regulations of the People's Republic of China on Registration of Civil Aircraft Nationality deleted the special

requirements for civil aircraft nationality registration by enterprises involving foreign capital. In July 2022, the MOT announced the decision to amend the Regulations on the Nationality Registration of Civil Aircraft (CCAR-45-R3). The new regulations clarify that China shall assume the duties and obligations under the Convention on International Civil Aviation (the Chicago Convention) with respect to Chinese aircraft, and added a provision that where an aircraft is a foreign-designed model that has been registered in China for the first time, the CAAC shall notify the competent aviation authorities of the country where such aircraft is designed in writing of the registration of such aircraft in China. CCAR-45-R3 also refined the requirements and restrictions on the location and size of letters of civil aircraft nationality marks and registration marks on the aircraft.

Foreign carriers

Pursuant to the Provisions on Licensing the Operation of Flight Routes by Foreign Air Transport Enterprises, if a foreign airline applies to operate a prescribed flight route between a foreign location and a location in China, it must comply with the bilateral civil air transport agreement and must first be designated by the government of its home country through diplomatic channels, unless otherwise provided. Following this, the foreign airline must apply to the CAAC for an AOC.

After the AOC is obtained and before the actual operation, the airline must:

1. obtain the operating norms for foreign air transportation carriers, as approved by the CAAC;
2. file its security plan for the record with the CAAC; and
3. apply for slots and the price.

As to unscheduled flights between locations in the foreign country and China, the foreign airline must obtain an AOC and have an examination and approval in accordance with the Rules on the Operation Certification for Unscheduled Flights of Foreign Public Air Transportation Carriers (CCAR-119TR-R1).

In addition, foreign airlines may not engage in scheduled or unscheduled flights between two locations in China, unless for special reasons such as rescue and relief and as approved by the CAAC.

Safety

The Rules of Operations Certifications for Public Air Transport Carrier with Large Aircraft (CCAR-121-R8) are formulated to ensure the compliant operation of carriers and to actively promote the sustained safety of the civil aviation industry. These Rules establish robust management policies and standards encompassing safety management, flight operations, continuous airworthiness, personnel qualifications, and other critical aspects of airline operations.

The Requirements for Safety Management System (SMS) for Aviation Operators further refines the requirements for SMS construction in accordance with the Work Safety Law

and the relevant International Civil Aviation Organization (ICAO) requirements. Aviation operators shall conduct SMS construction based on this advisory, taking into account their own scale and operational characteristics. The CAAC also issued the Regulations on the Implementation of the Emergency Rescue of Civil Airport Aircraft Emergencies, standardising the disposal and related management of emergency rescue for aircraft at transport airports and GA airports and their adjacent areas.

Incident reporting

According to the Regulations on the Reporting, Investigation and Disposition of Work Safety Accidents by the State Council and the Provisions on Civil Aircraft Incident Investigation (CCAR-395-R3) of the CAAC, where an incident takes place, it must be immediately reported to the relevant government departments (including the Work Safety Administration Departments and the RAs) and the police, the worker's union and the People's Procuratorate. Contingency plans must be triggered and efficient measures must be taken to prevent the accident from escalation and to reduce casualties and property losses.

Afterwards, investigations must be carried out in a timely manner and accurately to find out the truth, the reason and the loss, to summarise lessons from the accident and to propose corrective measures. Investigations into extraordinary serious accidents shall be undertaken by the State Council or its authorised department.

Airworthiness and maintenance

As outlined in the Regulations for the Administration of the Airworthiness of Civil Aircraft, all units or individuals engaged in the design, manufacture, use and maintenance of civil aircraft (including aircraft engines and propellers) within China, all units or individuals that export civil aircraft to China, and all units or individuals that perform outside China maintenance services to aircraft registered in China, must abide by these Regulations. For example, with regard to the export and import of aircraft, a certificate of airworthiness for export or import must be obtained from the CAAC beforehand. Before use of the aircraft, the certificate of airworthiness issued by the CAAC must be obtained, stating the type of civil aircraft, validity period, safety requirements and other applicable conditions and restrictions.

Insurance

As to insurance, the CAL only stipulates that liability insurance for third parties on the ground is universally required. In addition, other regulations require other insurance for different types of operators, for example:

1. hull insurance, hull risk insurance and legal liability insurance are required for those carriers or operators undertaking international air transportation, according to the Regulation on Scheduled International Air Transportation; and
2. hull insurance and legal liability insurance are required for those foreign operators undertaking unscheduled air transportation of passengers, baggage, cargo and

mail, according to the Detailed Rules for the Business Licensing for Non-scheduled Flights of Foreign Air Transport Enterprises.

Under no circumstances can the insurance obligation be circumvented, unless a similar government indemnity were to be provided and considered acceptable by the CAAC.

Generally, a certificate of insurance would be used as proof of insurance, whether the original or a photocopy consistent with the original. However, copies of insurance policies may also be required at the sole discretion of the competent authorities.

Competition

The Anti-monopoly Law (AML) is the primary law regulating monopolistic activities. The National Anti-monopoly Bureau was established on 18 November 2021 and is responsible for drafting anti-monopoly measures and guidelines, organising anti-monopoly enforcement work and promoting the revision of the AML to further improve the anti-monopoly system. Monopolistic activities specified in the AML include monopolistic agreements between undertakings, abuses of dominant market position by undertakings, and concentrations of undertakings that have or may have an effect of eliminating or restricting competition. The National Anti-monopoly Bureau proactively investigates business operations it suspects may be monopolistic. Those who undertake monopolistic behaviour may face severe punishment if they cannot be exempted in accordance with the law.

Administrative responsibilities and civil liability can be imposed for monopolistic behaviour but not criminal liability. However, those who refuse to comply with, or hinder, an investigation by the anti-monopoly law enforcement agencies may be held criminally responsible.

Wrongful death

Where a victim suffers bodily injury or death, the liable party shall pay for:

1. the funeral expenses;
2. the living expenses of the persons in need of the victim's maintenance and upbringing;
3. the death compensation expenses;
4. the traffic expenses and accommodation expenses paid by the victim's relatives for funeral matters, compensation for psychological damage and their loss of income resulting from missed working time; and
5. other reasonable expenses.

Death compensation shall be based on the average annual disposable income in the previous year of the urban residents in the locality of the court seised of the case.

Establishing liability and settlement

Procedure

In China, aviation-related disputes are solved by litigation or arbitration (where a binding arbitration agreement exists) according to the Civil Procedure Law and the Arbitration Law. In the case of litigation, disputes are to be filed with normal courts (e.g., there is no special court for civil aviation as there is for maritime disputes). Generally speaking, a first instance trial takes place and any party that disagrees with the first instance judgment can file an appeal with the superior court. The second-instance judgment is the final judgment. Normally, the first instance trial takes place within six months, which can be extended by another six months in special cases, and the second-instance trial should last no longer than three months.

In the case of arbitration, an arbitration award is final and binding. The timelines of arbitrations are subject to rules of the arbitration organisation.

The statute of limitations for actions under the CAL is two years counting from the day of arrival of the aircraft, its scheduled arrival or the termination of the shipment. The compensation claim time limit for injury and damage to a third person on the ground is two years, counting from the day the injury or damage occurred, and should not exceed three years under any circumstances. With regard to other types of action outside the ambit of the CAL, the time limitation is generally three years, in accordance with the Civil Code.

Carriers' liability towards passengers and third parties

Regarding damage to a third person on the ground, the operator shall be responsible. The registered owner shall be deemed to be the operator, unless proved otherwise. Employees or agents shall not be responsible unless they are proven to have caused the damage intentionally. In addition, the third person could file a lawsuit against the insurer or guarantor if the operator is bankrupted.

Carriers' liability towards passengers is strict liability. A carrier should assume liability for casualties among the passengers owing to accidents on the aircraft or during their boarding or alighting, unless the casualties arise entirely from health reasons on the part of passengers or their intention. A carrier should assume liability for the destruction, loss or damage of the carry-on articles of passengers owing to accidents on the aircraft or during their boarding or alighting, unless they have resulted entirely from the natural properties, quality or defects themselves.

Liability for an injury or damage to a third person on the ground is also strict. Victims of personal injury or death or loss of property on the ground (including water surface) caused by in-flight civil aircraft or falling people or things from in-flight aircraft have the right to be awarded damages, unless the injury or damage is not a direct result of an incident of this kind or is a result of the normal passage of the aircraft in conformity with the state rules of air traffic. There is no limitation on such liability.

Normally, the carrier bears civil liability. However, if extraordinary losses or casualties have been caused because of intentional or significant negligence of the carrier or its employees, they may be held criminally liable.

Product liability

Product liability is mainly specified in the Civil Code and the Product Quality Law. Under these laws, the manufacturer is obliged to compensate for injury or damage arising from defective products. Therefore, in air transport, if loss or damage to passengers or the aircraft owner or operator results from a defect of the aircraft or its parts, the manufacturer of the aircraft or its parts shall be responsible for compensation. In addition, if the manufacturer knew of a defect and still sold the aircraft or part to the owner, the owner or the passenger could request punitive compensation, the standard of which has yet to be stipulated by law.

Compensation

For loss of or damage to property, the liable party shall compensate the loss.

For personal injury, the liable party shall compensate, inter alia, medical expenses, loss of income, nursing care, necessary transportation and accommodation, and nutrition fees.

Where a victim becomes disabled because of an injury, the liable party shall pay:

1. compensation for the disability;
2. the expenses incurred for aid for the disability;
3. the living expenses of the person in need of maintenance and upbringing; and
4. the actual expenses necessary for initial treatment and nursing, ongoing treatment and nursing expenses, and follow-up treatment expenses.

Compensation for moral damages shall also be paid, but the amount will be subject to a court decision.

Thus, factors that influence the level and amount of compensation include the severity of injury, the victim's income and the living standards where the victim lives.

Furthermore, injured or deceased victims who have paid social insurance in China (which includes social medical insurance) can obtain compensation from China's social insurance fund, which in turn shall be entitled to recovery from any liable third party.

Drones

The CAAC has promulgated a series of regulations and normative documents to implement better overall management of drone operations, including the Regulations on Real-name Registration of Civil Unmanned Aerial Vehicles, Management Procedures for Trial Operation of Specific Types of UAVs (Interim), the Guidelines for the Trial Operation of Logistics and Distribution of Civil Light and Small UAVs and Guidelines for the Construction

of Civil Unmanned Aviation Regulations and Standard System V1.0, and the Operation Requirements for UAV Logistics Distribution, etc., in which the real-name registration system for drones has been established and training for drone operators and certification management has been carried out.

To provide a legislative framework for the supervision of UAVs, Article 214 of the Civil Aviation Law authorise the State Council and the Central Military Commission to develop dedicated regulations for UAVs. The CAAC issued the Regulations on the Flight Management of UAV (Interim), which came into effect on 1 January 2024, introducing significant adjustments to the management of UAV operational qualifications by consolidating the previous dual-licensing system – comprising the business licensing for general aviation and UAV operation certificate – into a single, unified remotely piloted aircraft system air operator certificate. To facilitate the effective implementation of this regulation, the CAAC further released the Regulations on Civil UAV Operation Safety Management (CCAR-92), promoting the safety management of civil UAVs' operation by clarifying requirements for operators, safety controls, registration, airworthiness, air traffic, and management, and fostering a favourable environment for the innovative development of the UAV industry.

The CAAC has launched the Comprehensive Management Platform for Civil UAVs (the UOM platform).^[4] Owners of all types of civil UAVs are required to register with their real identities on the UOM platform and shall obtain registration marks before utilising their UAVs. The UOM platform allows queries regarding suitable airspace for UAVs within China's territory. Organisations or individuals planning UAV flight activities shall submit flight activity applications through the UOM platform by 12pm one day prior to the planned flight. It is mandatory that during operations, the operator ensures all civil UAVs continuously transmit real-time flight dynamics to the UOM platform. Deactivation of this transmission function is expressly prohibited. The data transmission shall adhere to the Interface Specification of Civil Unmanned Aircraft Traffic Management Information Service System (MH/T 4053).

Voluntary reporting

China has established a voluntary and confidential reporting system, known as the Sino Confidential Aviation Safety Reporting System (SCASS), which is run by a subordinate body of the Civil Aviation University of China. Any person may submit a report to the voluntary reporting system by letter, fax, email, online filing, telephone call or mobile app. The legitimate rights and interests of the reporting persons are protected by relevant laws. The types of reports collected on the SCASS may include:

1. reports on the poor operational environment of an aircraft and defects of equipment and facilities;
2. reports concerning difficulties in implementing standards or flight procedures;
3. reports on events that may affect aviation safety, other than accidents, incidents or crimes; and
4. reports on other issues or recommendations directly related to aviation safety.

On 30 May 2025, the CAAC revised the Management Measures for Proactive Reporting of Civil Aviation Safety Information (AC-396-10 R1) to further mobilise civil aviation practitioners to participate in civil aviation safety management, and to identify and prevent potential risks to ensure the safety operation of civil aviation. In accordance with the Measures, the CAAC is also responsible for establishing a proactive reporting system, including a safety information sharing platform, a whistle-blowing platform and the SCASS, etc., to achieve comprehensive management in reporting safety information. According to the Administrative Provisions on Civil Aviation Safety Information (CCAR-396-R4), the CAAC will give recognition and awards to persons who make outstanding contributions in reporting civil aviation safety hazards.

Outlook and conclusions

With the release of the Guiding Opinions on Implementing the Overall Deployment of Building a Digital China and Accelerating the Development of Smart Civil Aviation by the CAAC, it is expected that by 2027, significant progress will be made in the digital transformation of smart civil aviation construction, with efficient interconnection of digital infrastructure, providing strong support for civil aviation to achieve safety, convenience, efficiency, green and economic development.

In May 2025, the MOT issued the key points of the 2025 legislative work on transportation. This year, efforts will be further made to advance the submission of the CAL for review by the Standing Committee of the National People's Congress. According to the 14th Five-Year Plan for Civil Aviation Legislation covering the years 2021 to 2025, the civil aviation industry will continue to focus on perfecting the regulatory system in key areas, such as airworthiness certification, flight standards, airport management, air traffic management and civil aviation network security. In addition, the quality of air transport services, the formulation of a regulatory framework for the drone industry, and other matters contributing to the promotion of high-quality development will also be given substantial attention. China will strengthen its commitment to safety-centric development within the civil aviation industry and to draft a comprehensive 15th Five-Year Plan for civil aviation at an advanced standard. Key initiatives will include optimising the route network structure, bolstering the expansion of domestic demand and the nation's further opening-up policy, enhancing operational flight efficiency on a continual basis, and facilitating the orderly advancement of general aviation and the low-altitude economy.

Endnotes

- 1 CCAR-91-R4. [^ Back to section](#)
- 2 CCAR-14-R1. [^ Back to section](#)
- 3 State Council Decree No. 732, 2020. [^ Back to section](#)
- 4 Accessible at <https://uom.caac.gov.cn>. [^ Back to section](#)



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Introduction

The civil aviation sector in Colombia is quite dynamic and plays a crucial role in economic development. Colombia's geography is characterised by the fact that the Andes Mountain range crosses a substantial portion of the territory. The difficulties arising from this phenomenon have historically complicated the construction of quality transportation infrastructure. As a result, Colombians rely heavily on aviation to travel around the country. According to the consolidated figures,^[1] in 2024 Colombia experienced significant growth in passenger traffic; 56 million passengers travelled to and from airports in Colombia, an increase of 14.3 per cent compared with 2023. The latest figures show that during the first quarter of 2025, air services in Colombia carried 26 million passengers, an increase of 14.8 over the first quarter of 2024. Furthermore, cargo traffic in 2024 also rose significantly: 994,237 tons, an increase of 8.6 per cent compared with 2023.

Aviation is regulated by the Code of Commerce. It establishes the principle that all civil aviation activities are subject to the supervision and regulation of the Colombian government, directly and through the Civil Aviation Authority of Colombia (Aerocivil).

Aerocivil has broad and comprehensive powers to regulate all matters related to civil aviation. The Aeronautical Regulations of Colombia (RAC) is a body of statutory regulations issued by Aerocivil that is amended and updated from time to time. Aside from the RAC, Colombian civil aviation activities are also subject to multiple multilateral and bilateral treaties and conventions that govern a wide variety of issues.

The RAC applies to all civil aviation activities and to all individuals and legal entities, whether national or foreign, that engage in such activities within Colombia, as well as to activities that take place on board Colombian registered aircraft as well as on board foreign aircraft operated by Colombian carriers. RAC regulations include the regime for aeronautical personnel, define civil aviation activities and contain rules that govern matters such as aircraft airworthiness, operations, commercial and non-commercial air services, assignment of routes, adjudication of slots, sanctions regime, licensing and operation of aerodromes and airports, registration, identification and certification of aircraft.

Colombia is a member of the International Civil Aviation Organization and is a party to the 1944 Chicago Convention on International Civil Aviation (the Chicago Convention), ratified in 1947. Pursuant to Article 37 of the Chicago Convention, Latin American nations have implemented a system that seeks to harmonise the region's aeronautical regulations. Known as the Regional Safety Oversight Cooperation System, its members have been adopting the Latin American Aeronautical Regulations (LAR), to harmonise each Member State's regulations with those of LAR. For instance, in 2018 Colombia adopted the LAR regulations concerning operations of foreign carriers.

Access to market is open to all interested parties, subject to compliance with applicable RAC regulations. Market access to foreign carriers and investors is mostly regulated by bilateral treaties and applicable RAC regulations, some of which are based upon the principle of open skies conditions.

Assignment of slots is governed by the RAC. Slots are assigned for air operations to or from Colombian airports that, due to high traffic volumes, are classified as Level 3, as well as for Level 1 and 2 airports where there is a likelihood of traffic congestion during certain

hours of the day, the week or during certain periods. Slots are assigned to operators based on airport capacity considerations, applying principles of transparency of procedures, which must be clear and visible to all interested parties. Relevant information concerning slots must be accessible. Assignment of slots must also be based upon equality and proportionality of each operator's size and frequency of operations. When requesting slots, operators are expected to observe loyalty with respect to other competitors, avoiding practices that unduly restrict or affect operations and connections that take place at the relevant airport. Also, airport operators and air carriers must cooperate to achieve the highest efficiency in air operations to and from airports being coordinated, and avoid reserving and retaining slots that will not be used.

Concerning interests in aircraft, Colombia is a party to and ratified in due course the Cape Town Convention and the Protocol on Matters Specific to Aircraft Equipment (together, 'the Cape Town Convention'). Accordingly, aircraft sellers, lessors and financiers are entitled to the rights and remedies arising from the Cape Town Convention, which are enforceable before Colombian government agencies and the courts. A substantial proportion of commercial aircraft operated by Colombian carriers are leased from international aircraft lessors and financed by the world's leading banks and export credit agencies.

The principles of civil liability are set forth in the Civil Code. Claims for damages suffered outside of the realm of contracts are subject to the statutes of the Civil Code that apply to extra-contractual civil liability. The Civil Code provides that a person who has committed a wrongful or criminal act must indemnify the victim of such act.^[2] This principle is considered to encompass all types of damages, including material (also called 'patrimonial') damages and immaterial (also called 'extra-patrimonial' or 'moral' damages). Material damages are those that first and foremost inflict economic harm upon the victim. The Civil Code regulates the notion of indemnification of damages.^[3] The obligation to indemnify the victim includes both the damage proper as well as the loss of income or profit arising from the relevant damage.

Moral (also known as 'extra-patrimonial' or 'immaterial') damages are likewise recognised pursuant to the principles set forth in Article 2341 of the Civil Code. The Supreme Court of Justice has, for many years, acknowledged that aside from material damages, wrongful and criminal conduct can inflict damages that deeply affect a person. The Supreme Court has found that immaterial damages should give rise to indemnification, in spite of the fact that due to their nature, it is not possible to adopt a methodology that accurately evaluates the amount that should be paid to the victim by way of indemnification.

Beginning in 1922, the Supreme Court established the principle that moral damage would occur where a person is affected in his or her intimate personal rights and sentiments. The Court arrived at similar findings in a series of judgments where, in essence, it held that moral damages result where a person has suffered significant detriment to his/her moral patrimony, including severe anxiety, suffering and emotional distress. However, starting in 13 May 2008, the Court changed course and found that there are two different types of immaterial damages:

1. subjective moral damages that refer to the moral suffering, anxiety and emotional distress that affects an individual internally as a result of harm arising from the loss of a loved one, or from injuries resulting from an accident, or from other types of adversities; and

2. harm to the quality of life (*daño a la vida de relación*) that results in a sudden deterioration of everyday tasks that severely affects an individual's ability to enjoy life and to access pleasure, communication with others, and that places obstacles, preoccupations and difficulties. Harm to the quality of life does not have an economic value that can be readily assessed.

Cases involving harm to the quality of life usually involve personal injuries that incapacitate and severely limit a person's basic functions. In that same 2008 judgment, the Court also found that to determine the value to be paid to plaintiffs, the Court must carefully examine the obstacles, difficulties and limitations that the person faces, and arrive at a figure that will provide some degree of equitable relief to the victim, in the understanding that it is impossible to accurately assess the value of such harm.

A claim for damages requires that the plaintiff prove conclusively the damages suffered, the link between the damages and the alleged action incurred by the defendant, as well as the valuation of the resulting losses. However, in aviation accidents suffered by passengers or by third parties on the ground, the burden of proof shifts to the operator.

Under Colombian law, only actual damages are subject to the obligation to indemnify. Compensation for damages is not intended to punish the plaintiff. Indeed, the notion of punitive damages is not provided for by Colombian civil law.

In cases where the nature of the material damages consists in the loss of revenues that would have been earned by a passenger, parties are required to provide to the court documents that prove the revenues earned by the deceased person, such as certificates concerning salaries paid to the victim.

Colombia has not implemented voluntary systems for reporting incidents by members of flight crew.

Year in review

Avianca, Latam and Wingo (a low-cost airline that is part of Copa Airlines) were the carriers that mobilised the most passengers in 2024. A total of 38 million passengers, 11 million passengers, and 3.2 million passengers, respectively, were transported by said airlines. Neos launched its Milan-Cartagena route by year end. Apart from Satena, other airlines returned to the Venezuelan market, such as Avianca, Wingo and Latam with its Bogotá-Caracas route, and Wingo with the Medellín-Caracas route. Jetsmart also deepened its presence in into the Colombian market, launching routes from Bogotá to Medellín, Cartagena, Pereira and Santa Marta, and from Medellín to Cartagena and Santa Marta. Colombia has experienced the opening of new connections domestically and internationally. It is estimated that between 2023 and 2024, Aerocivil authorised over 110 new air routes.^[4]

The most noteworthy events during the past year in Colombia's aviation industry include the following:

1. On 6 June 2024, Emirates started its operations in Colombia with an incoming flight from Miami. The airline is currently operating a daily Bogotá–Miami–Dubai route.

2. On 14 March 2024, JetSmart commenced its domestic flights operations in Colombia with the Bogotá-Medellín route.
3. In order to interconnect various regions of Colombia, the state-owned Satena will soon add to its fleet eight new DHC-6-400 Twin Otter series aircraft from De Havilland Aircraft. The new routes will include: (1) Quibdó–Cartago–Quibdó, (2) Medellín–Paipa–Yopal–Paipa–Medellín, and (3) Arauca–Cúcuta–Arauca.
4. In July 2025, the president of the Asociación de Líneas Aéreas Venezolanas (ALAV), Marisela Loaiza, announced the shutdown of Satena's Bogotá–Valencia service starting from August 2025, causing a blow to the Colombian Government's policy of fostering commercial relations between Venezuela and Colombia.
5. From 21 October 2024, to 23 October 2024, Colombia hosted the ICAO Global Facilitation Forum, where Aerocivil was distinguished with an acknowledgement to commemorate its 100th anniversary, and its leadership in the field of air traffic control and regulation was highlighted.
6. In December 2024, the Government announced the financial closing for the construction of the Aeropuerto del Café – Aerocafé. Located in Palestina, Caldas, it is scheduled to begin service in 2028. This airport will connect the coffee-growing region of Colombia, which will bring significant benefits to the local communities and will have a decisive impact in the region's economy, specifically in the hotel, restaurant, and recreation sectors.
7. Aerocivil granted operating permits to various airlines, such as JetSmart, Emirates, Arajat, Edelweiss, Gol, Neos, WorldFly, Avior Airlines and Sunwing Airlines, which will make available additional destinations to, from and throughout Colombia.
8. Due to a power outage suffered by the Cartagena refinery there was a shortage of jet fuel, which generated shockwaves in the aviation and tourism industries. This event affected air connectivity throughout Colombia and generated uncertainty among tourists. Many flights were cancelled or rescheduled, and several airlines increased ticket prices. To control the crisis, the following measures were adopted: (1) Ecopetrol (state-owned company) imported 100,000 barrels of jet fuel to guarantee its supply; (2) Aerocivil afforded airlines flexibility for their operations, such as cancellation and rescheduling of flights; and (3) fuel saving measures, such as reduction of aircraft weight.
9. In April 2025, Bogota's El Dorado Airport was distinguished by Skytrax and awarded it the 'Best Airport in South America' for the fourth consecutive year.
10. According to data provided by the Aerocivil, Bogota's El Dorado mobilised approximately 45 million passengers in 2024, consolidating its position as the busiest airport in South America for the third consecutive year. In fact, in 2024, El Dorado became the busiest airport in all of Latin America, surpassing Mexico City's International Airport.

Legal framework for liability

Part Two of Book V – Aeronautics of the Code of Commerce provides the regulations governing the notion of liability in civil aviation.^[5] The said regulations apply only to aviation accidents in the context of air services provided within Colombia by local carriers.

Aviation accidents that take place in the course of air services in international travel are governed by the terms of the international treaties and conventions of which Colombia is a party.

International carriage

Colombia is a member of and ratified in due course the Montreal Convention. The rules of liability and the limits to indemnification provided by the Montreal Convention, which superseded the system created by the 1929 Warsaw Convention and related instruments, are fully enforceable before the courts of Colombia.

Colombia has not issued specific regulations to implement the Montreal Convention.

Internal and other non-convention carriage

As mentioned above, accidents arising from civil aviation that do not originate from international air services are governed by the rules provided by the Code of Commerce, as follows.

Damages suffered by third parties while on the ground

Article 1827 of the Code of Commerce provides that a person who suffers an accident while on the ground is entitled to be compensated by simply proving that the relevant damages originated from an aircraft during a flight or from a person or object that fell from the aircraft. For the purposes of these rules, the aircraft is deemed to be in flight from the moment that its engines are turned on for takeoff until they are turned off upon the conclusion of the flight. In the case of ultra-light flying objects, the term 'flight' applies to the period encompassing the moment when the object is separated from the surface, until the moment when it is again tied to the surface.^[6]

Article 1831 of the Code of Commerce establishes certain limits per aircraft and per accident to the amounts payable for damages suffered by third parties while on the ground. Said limits depend on the weight of the aircraft. Also, in the case of death or injury, the amount of compensation payable per deceased or injured person cannot exceed 33,333 grams of gold.

The following exceptions apply:

1. No compensation is due where the subject damages are not the direct consequence of the event, or if they are due to the mere passage of the aircraft over the airspace, provided that the air transit regulations were duly observed.^[7]
2. The carrier is not required to compensate any damages suffered as a direct consequence of civil strife or conflict, or if the carrier has been deprived of the aircraft by virtue of an act of a public authority or if the aircraft has been unlawfully taken away by third parties.^[8]

Transportation of passengers – death or injury of a passenger

Article 1880 of the Code of Commerce provides a presumption of liability whereby the air carrier is liable for the death or injury of a passenger, provided that the claimant proves that the passenger's death or injury occurred while onboard the aircraft, or while the passenger was boarding or de-boarding the aircraft, unless the carrier is able to demonstrate conclusively that the death or injury occurred by virtue of (1) the exclusive fault of a third party, or (2) the exclusive fault of the passenger, or due to the passenger's organic injuries or to his or her previous illness that was not aggravated by virtue of actions attributable to the carrier. However, the carrier must also be able to prove conclusively that it took all the necessary measures to avoid the accident, or that under the circumstances it was impossible to take such measures.

Article 1881 of the Code of Commerce sets forth the principle that the indemnification payable for a passenger's death or injury is subject to a limit of 25,000 grams of gold per passenger.

General aviation regulation

Pursuant to RAC 4, each operator is fully liable for the operation and airworthiness of its aircraft, including airframes, engines, propellers, rotors, accessories and parts, and is required to maintain its aircraft in accordance with the principles set forth by the RAC.^[9]

Passenger rights

The main consumer protection regulations governing compensation for delay, cancellation of flights and regulations for disabled passengers are set forth by RAC 3, Decision 619 of 2005 of the Andean Community of Nations, and the Code of Commerce.

Compensation for delay

According to Article 1882 of the Code of Commerce, when a trip does not begin under the stipulated conditions or is delayed due to force majeure or meteorological reasons affecting safety, the operator is released from liability subject to reimbursing the passenger for the price of the ticket.

In cases of delays where there is no refund, or in any other event attributable to the operator (including overbooking), the operator must compensate the passenger depending on the length of the delay.^[10]

Cancellation of flights

In cases where the operator cancels the flight without refunding the ticket price, the operator must provide accommodation (if not at the passenger's place of residence) and transportation costs between the airport and the place of accommodation and vice versa. Where cancellation is not due to force majeure or meteorological reasons affecting safety, in addition to reimbursing the ticket price, the operator must pay the passenger additional

compensation of not less than 30 per cent of the value of the ticket, payable in cash, unless the passenger expressly accepts another form (such as vouchers or miles).^[11]

Disabled passengers

Passengers with limitations and senior adults requiring special assistance, children under five years of age, pregnant women and their companions (if necessary), have priority for boarding served in a preferential queue, if airport facilities allow it. For seriously ill passengers who need to travel with a physician, the necessary space and boarding priority must be available.^[12]

Other legislation

Competition law in Colombia only contemplates administrative procedures and sanctions but does not result in direct civil liability.

Licensing of operations

Licensed activities

Civil aviation activities require prior authorisation from Aerocivil. Aviation activities are defined as a set of tasks and operations, directly or indirectly related to the use of civil aircraft, including but not limited to commercial air transportation services (charter or regular, domestic or international, of passengers, cargo and mail);^[13] general aviation services (private aviation, flight instruction and experimental flights); construction and maintenance of aircraft or parts (design, construction, assembly, maintenance, repair or reconstruction, modification, inspection, etc.); operation of aeronautical infrastructure, flight protection and aeronautical support services (traffic control services, aeronautical communication, meteorological information services, and aeronautical information services); specialised airport ground support services required for aircraft operation; and aeronautical instruction.^[14]

To obtain an authorisation to operate, an applicant must provide evidence of its administrative, technical and financial capability to carry out the relevant activities.

Ownership rules

Regulations do not limit the possibility of foreign entities or individuals owning a local carrier. RAC 3 provides that only companies incorporated in Colombia and, in the case of foreign carriers, branches of foreign companies, can provide air services. To obtain a licence to operate, applicants are required to demonstrate their financial, administrative, and technical capabilities.

Neither the RAC nor other regulations set forth special requirements related to nationality or regarding technical or financial requirements to own all or part of a Colombian air carrier.

Therefore, the general requirements applicable to incorporate and to own a company in Colombia apply.

Foreign carriers

Foreign carriers from a country with which Colombia has a bilateral air transport treaty can apply for authorisation to provide international air services under the terms of the relevant treaty.^[15]

Exceptionally, Aerocivil can authorise a foreign-registered operator to carry out special aeronautical activities where a local company or a Colombian registered aircraft is unable to provide said service.^[16]

Safety

Safety requirements

To guarantee safety of operations, air operators must ensure that (1) their personnel performing safety-critical functions refrain from working under the influence of psychoactive substances; (2) psychoactive substances are not carried onboard the aircraft;^[17] (3) employees are familiar with and comply with the laws and procedures of those foreign states where they conduct operations; (4) pilots are familiar with the laws and procedures prescribed for areas of destination, the aerodromes to be used, the corresponding air navigation services and facilities; and (5) other crew members are familiar with the regulations and procedures applicable to the performance of their duties.^[18]

Likewise, carriers must establish and maintain: (1) an operational safety management system acceptable to Aerocivil and suitable to the size and complexity of operations; (2) a flight data analysis program; and (3) a flight safety documentation system for the use and guidance of the operations personnel.^[19]

Maintenance

RAC 43 regulates the obligations of entities that provide maintenance services, in-process inspections or maintenance conformity certifications.

Airworthiness

An airworthiness certificate is required for each aircraft under Article 1791 of the Code Commerce and developed by RAC 4, and is issued by the civil aviation authority of the state of registration of the relevant aircraft.^[20] For operating purposes, in addition to an airworthiness certificate, the aircraft must have: (1) day visual flight rules; (2) night visual flight rules; (3) instrument flight rules; (4) an emergency locator transmitter; and (5) anti-collision lights and navigation lights.^[21]

Training

Aeronautical personnel (pilots, crew members and other non-crew aeronautical personnel) must have a licence to perform their functions,^[22] according to RAC 61, 63 and 65. Pilots require: (1) a licence issued by the state of registration of the aircraft or issued by another state; (2) an aeronautical medical certificate in accordance with the requirements of RAC 67; (3) a flight instructor rating; and (4) an instrument rating.^[23] Other crew members must hold the corresponding licence and medical certificate.^[24] Lastly, non-crew aeronautical personnel (such as air traffic controllers, flight dispatchers and aircraft maintenance technicians) require a licence and, where applicable, a medical certificate.^[25]

Accident reporting

Pursuant to Article 1850 of the Code of Commerce, a person who has knowledge of the occurrence of an aviation accident is required to report it to the nearest authority, which, in turn, must report it to Aerocivil. Additionally, according to RAC 114, owners and aircraft operators who have knowledge of an accident or incident must, immediately or as soon as practicable, report and provide the fullest possible information.^[26]

Insurance

Article 1900 of the Code of Commerce establishes that air carriers and aircraft operators must provide guarantees to cover damages to passengers, cargo or third parties, damages to persons and objects on the surface, and damages resulting from boarding, either through insurance policies, bank guarantees or deposits in cash or securities marketable in stock exchanges. Such guarantees must be issued for amounts equivalent to the limits of liability set forth in the Code of Commerce or in international conventions. Civil aircraft flying over Colombia must have liability coverage for damages caused to third parties.^[27]

Competition

Antitrust and competition are governed by Law 155/1959, Decree 2153/1992 and Law 1340/2009, which grant general jurisdiction to the Superintendence of Industry and Commerce (SIC) for enforcement of competition and antitrust matters.

Colombian competition law covers both coordinated and unilateral conduct, prohibiting undue restrictions on competition in the market either in the form of anticompetitive agreements or in the form of abuse of a dominant position. Competition law also regulates antitrust and merger control procedures.

Penalties for breach of competition regulations are subject to a limit of 100,000 minimum monthly wages (approximately US\$22 million) for companies and 2,000 minimum monthly wages (US\$450,000) for individuals that incur in or tolerate anticompetitive behaviour. Criminal liability is limited exclusively to anticompetitive agreements in public procurement procedures.

Regarding merger control, the SIC is not the competent authority if the transaction involves air carriers. In this case, the competent authority is Aerocivil. Merger control regulations

in the aviation market apply to a variety of integration transactions (mergers, acquisitions, changes in control, joint ventures, metal-neutral joint business agreements and other forms of collaboration where competition between carriers may be reduced).

Other forms of collaboration between carriers, such as code-share agreements and interline agreements, where competition between carriers is not reduced, are not subject to merger control procedures. They are, however, subject to other regulatory authorisations by Aerocivil.

Wrongful death

Wrongful death resulting from an aviation accident can lead to criminal liability, if it can be determined that the accident was caused by gross negligence or grave violation of air traffic regulations by an individual (e.g., pilots, air traffic controllers, maintenance technicians, or other individuals involved whose actions or decisions have contributed to the accident).^[28] After a criminal conviction (or regardless of the criminal action), indirect victims of a wrongful death are entitled to claim compensation for damages suffered.

Establishing liability and settlement

Procedure

Claims for indemnification of damages arising from an aviation accident are within the competence of the circuit courts sitting in the place where the defendant has its principal place of business.

In claims arising from the death of or injury to a passenger, the heirs of the victim (in the case of death) are entitled to commence an action based upon the contract of carriage, which action is subject to the limits to the indemnification discussed above.^[29] However, applicable provisions of the Code of Commerce also recognise that the heirs of a deceased passenger are entitled to commence an action based upon torts (extra-contractual civil liability).

The rules for proving the claim and the amounts owed to the passenger or their heirs (in the case of the death of the passenger) are the same for both actions. The action arising from the contract of carriage is subject to a limitation as to the amount of the indemnification (25,000 grams of gold), while the action based upon extra-contractual civil liability is not subject to such limitation.

Awards must be based upon conclusive evidence provided by the plaintiff concerning the value of the actual damages suffered. In other words, the plaintiff must prove the relevant factors required to evaluate the claim, including the lost revenues of the deceased passengers, any alleged dependency, any costs incurred by the victim or their heirs (in the case of death of the passenger), as well as the moral damages claimed.

The General Code of Procedure provides that before filing a civil complaint before the courts, the claimant must file a petition before a conciliation centre, to attempt to reach an

out-of-court settlement with the defendant. The conciliation centre must call the parties to a hearing, where the conciliator appointed by the centre is expected to mediate and encourage the parties to settle the case. If, however, the parties are not amenable to settling the claim, the conciliator must issue minutes of the hearing attesting to the fact that no conciliation was reached, and that the parties are thereafter free to file the claim before the civil circuit court. The conciliation process usually takes two to four months to conclude.

In accordance with Article 993 of the Code of Commerce, the action originating from the contract of carriage is subject to a two-year statute of limitations from the date when the accident occurred.

Civil proceedings in Colombia tend to be lengthy. Although the General Code of Procedure provides that the duration of a declarative judgment should not exceed one year, due to the backlog that prevails in the civil courts, proceedings in the first instance usually last in excess of five years. The judgment of the civil circuit court may be appealed before the Superior Tribunal (second instance) and the latter's ruling may be subject to a special recourse before the Supreme Court of Colombia based only on certain specified causes. As a result, civil proceedings arising from an aviation accident often last more than 10 years.

Carriers' liability towards passengers and third parties

'Transportation of passengers – death or injury of a passenger', above, addresses how an operator's liability is established in case of death of or injury to passengers or to third parties on the ground.

Liability is purely civil. In Colombia, legal entities are not subject to criminal liability.

As explained in 'Transportation of passengers – death or injury of a passenger' in aviation accident claims, the burden of proof shifts to the defendant (the air carrier), which can only be excused if it is able to prove conclusively that the death or injury occurred by virtue of (1) the exclusive fault of a third party, or (2) the exclusive fault of the passenger, or due to the passenger's organic injuries or to his or her previous illness that were not aggravated by virtue of actions attributable to the carrier, provided, however, that the air carrier also proves conclusively that it took all the necessary measures to avoid the accident, or that it was impossible to take such measures.

With respect to the valuation of moral damages, until 2001 the Supreme Court used 1,000 grams of gold as the standard to value moral damages. However, since then the amounts awarded have varied between 40 and 100 minimum monthly salaries (one minimum monthly salary is approximately equivalent to US\$225) to the spouse or significant other of the passenger, as well as to each sibling.

Product liability

There are no special rules governing the liability of manufacturers and owners to passengers and operators. The general rules and principles of civil liability apply.

Compensation

Compensation in aviation accidents requires the plaintiffs to prove conclusively the nature of the damages allegedly suffered, the elements and criteria for valuing the claim, including aspects such as the revenues of the deceased passenger, his or her life expectancy the dependency that may have existed between the deceased passenger and their spouse or significant other and with relatives. Plaintiffs are advised to present to the court, together with the complaint, an opinion from an accountant or financial expert that provides a detailed calculation of the claim's value.

There are no special national requirements in claims handling concerning matters such as payment of condolence money. In practice, in the event of an accident, carriers tend to advance condolence stipends and other post-accident family assistance.

Colombian employees must be affiliated with a General Social Security System (Social Security) that encompasses three subsystems: health, pensions and labour risks. Social Security covers employees mainly against the risks of general illness and maternity, occupational accidents, occupational disease and disability, retirement and death. Coverage of employees incapacitated in accidents depends on the origin of the accident suffered.

Local laws do not provide for family assistance after an employee's accident. However, relatives who have paid for an employee's burial expenses are entitled to claim a funeral allowance ranging from five to 10 minimum monthly salaries (for 2023, approximately US\$225).

Drones

Drones are regulated under Appendix 13 of RAC 91, which applies to unmanned aircraft with a maximum takeoff weight (MTOW) greater than 250 grams, used for civilian activities or for any other purpose, as well as to exploiters, operators and personnel who certify training in unmanned aerial systems (UAS) operations.

The UAS operations are classified, according to operational risk, as follows:

1. Class A (open): operation of UAS with an MTOW greater than 250 grams and up to 25 kilograms do not require authorisation from Aerocivil. However, owners of this type of aircraft must register in the civil aeronautics database.
2. Class B (regulated): operation of UAS that have an MTOW greater than 25 kilograms but less than 150 kilograms requires prior authorisation from Aerocivil.
3. Class C (certified): operation of UAS that have an MTOW greater than 150 kilograms, international overflights and those providing transport services. Currently, their operation is not authorised in Colombian airspace. The operation of these types of aircraft is subject to special permits from Aerocivil exclusively for scientific research, innovation and development purposes.

Voluntary reporting

There is no special mechanism for voluntary reporting of aviation incidents.

Outlook and conclusions

As previously stated, despite some of the difficulties that the industry currently faces, the country's aviation industry has a positive outlook, as reflected in the increase in passenger traffic in Colombian airports during the first quarter of the year, as well as in the interest of new airlines that are venturing into the Colombian market.

Endnotes

- 1 <https://www.aerocivil.gov.co/prensa/noticias/Pages/Aeronautica-Civil-publica-el-ranking-de-movilizacion-de-pasajeros-durante-2023-en-los-aeropuertos-del-pais.aspx#:~:text=De%20acuerdo%20con%20el%20consolidado,s,e%20movilizaron%2048.073.000%20pasajeros.> ^ [Back to section](#)
- 2 Article 2341 of the Civil Code. ^ [Back to section](#)
- 3 Article 1614 of the Civil Code. ^ [Back to section](#)
- 4 <https://www.larepublica.co/economia/aeronautica-civil-autorizo-110-nuevas-rutas-aereas-entre-2023-y-2024-4031772#:~:text=La%20aeron%C3%A1utica%20Civil%20autoriz%C3%B3%20al,a%C3%A9reas%20entre%202023%20y%202024-> . ^ [Back to section](#)
- 5 Articles 1827 through 1831 (Damages to Third parties on the Ground) and 1880 and 1881 (Liability for Passengers' Death or Injury). ^ [Back to section](#)
- 6 Article 1828 of the Code of Commerce. ^ [Back to section](#)
- 7 Article 1828 of the Code of Commerce. ^ [Back to section](#)
- 8 Article 1830 of the Code of Commerce. ^ [Back to section](#)
- 9 RAC 4. Section 4.6.4.2. ^ [Back to section](#)
- 10 RAC 3. Section 3.10.2.13.2. a). ^ [Back to section](#)
- 11 RAC 3. Section 3.10.2.13.2. c). ^ [Back to section](#)
- 12 RAC 3. Section 3.10.2.9. ^ [Back to section](#)
- 13 RAC 1. Section 1.2.1. ^ [Back to section](#)

- 14** RAC 1. Section 1.2.1. ^ [Back to section](#)
- 15** Manual of Procedures for Civil Aeronautical Activities. Section 3. ^ [Back to section](#)
- 16** RAC 5. Section 5.110. ^ [Back to section](#)
- 17** RAC 91. Sections 91.010 and 91.020. ^ [Back to section](#)
- 18** RAC 121. Section 121.015. ^ [Back to section](#)
- 19** RAC 121. Section 121.105. ^ [Back to section](#)
- 20** RAC 4. Section 4.2.2.2. ^ [Back to section](#)
- 21** RAC 4. Section 4.2.2.3. ^ [Back to section](#)
- 22** Code of Commerce. Article 1801. ^ [Back to section](#)
- 23** RAC 61. Section 61.015. ^ [Back to section](#)
- 24** RAC 63. Section 63.010. ^ [Back to section](#)
- 25** RAC 65. Section 65.010. ^ [Back to section](#)
- 26** RAC 114. Section 114.315. ^ [Back to section](#)
- 27** Code of Commerce. Article 1901. ^ [Back to section](#)
- 28** Article 109 of Law 599 of 2000. ^ [Back to section](#)
- 29** Article 1881 of the Code of Commerce provides that the indemnification cannot exceed 25,000 grams of gold. ^ [Back to section](#)



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Introduction

Civil aviation is a fundamental industry for the Dominican Republic, as it has an enormous impact on the country's commercial activities. In particular, civil aviation constitutes one of the principal tools for the development of tourism. In 2024 alone, 19,003,262 passengers travelled to and from the Dominican Republic,^[1] mainly through two of the seven existing international airports: Punta Cana International Airport (located in the area of Punta Cana, on the east side of the island) and Las Americas International Airport (located approximately 22 kilometres east of Santo Domingo, the capital city), which represents a recovery of more than 100 per cent of the passenger traffic that the country had in 2019, before the covid-19 pandemic. Of the total number of passengers mobilised in 2023, 96 per cent was registered through the modality of regular flights (18,314,986), and the remaining 4 per cent through charter flights (688,276).

The geographical location of the Dominican Republic makes it a potential hub for international passenger traffic, as it provides easy access to and from major cities in the Americas and Europe. As of June 2025, approximately 63 national and international airlines had authorisation to operate regular flights to and from the Dominican Republic.^[2]

Civil aviation is governed by the provisions of Law No. 491-06 (the Civil Aviation Law) and its latest modification under Law No. 17-24, as well as its regulations,^[4] and by several international treaties and conventions duly ratified by the Dominican Republic. The scope of the Civil Aviation Law includes the inspection, oversight and control of all domestic or foreign civil aircraft, their owners, operators, crew, passengers and cargo transported in such aircraft, as well as any person involved in aviation activities within Dominican territory that departs from, lands on, overflies or in any other way falls within the jurisdiction of national sovereignty.^[5]

Pursuant to the provisions of Articles 5 and 6 of the Civil Aviation Law, the state has complete and exclusive sovereignty over its territory. Consequently, it exercises jurisdiction over its territory, its jurisdictional waters and airspace.

Article 7 of the Civil Aviation Law sets out an ample list of acts, events and behaviours subject to Dominican jurisdiction,^[6] these include all acts performed, events, offences, misdemeanours, crimes or any of the following violations of Dominican laws and regulations:

1. violations committed on board Dominican aircraft within the Dominican territory, or while they overfly the high seas or over territory not submitted to the sovereignty of another state;
2. violations committed on board Dominican aircraft while they overfly the territory of a foreign state, excepting those cases of interest to the security or public order of the underlying state;
3. violations committed on board foreign aircraft that overfly Dominican territory or are stationed in Dominican territory, when the acts, events, offences, misdemeanours or crimes of this kind are of interest to or affect the security or public order of the Dominican Republic, or when they occur or have effects within Dominican territory; and

4. violations committed during the flight of a foreign aircraft, when the foreign aircraft first lands in the Dominican Republic after the crime is committed.

International public air transportation services are by law reserved for Dominican air operators. However, such services may be granted to foreign air operators when the Dominican Republic has signed and ratified agreements or treaties with the country of origin of the requesting foreign air operator. The Dominican Republic currently has formal bilateral relationships with over 70 sovereign states through the execution and ratification of air service agreements.^[7] There are three regulatory bodies that oversee civil aviation activities in the Dominican Republic: the Civil Aviation Board (JAC),^[8] the Dominican Institute of Civil Aviation (IDAC)^[9] and the Dominican Aviation Security Body (CESAC).^[10]

The main civil aviation regulatory body of the Dominican Republic is the JAC, which is the advisory body to the executive branch of government regarding commercial aviation. It is also the main regulatory body with respect to the economic aspects of commercial aviation. The IDAC is a technical and specialised public body in charge of the supervision and control of civil aviation in Dominican Republic, except when the JAC has jurisdiction over specific matters.

The Dominican Aviation Security Body is a dependency of the Ministry of the Armed Forces and is in charge of the security of passengers, crew, ground staff and the general public, aircraft, airports and aerodromes, and of the infrastructures and facilities that provide civil aviation services.

An air carrier may obtain the corresponding authorisation to operate as an air operator^[11] in the Dominican Republic as a national air operator or as a foreign air operator.^[12]

National air operators must comply with the following two requirements: the obtainment of a certificate of economic authorisation issued by the JAC; and the obtainment of an air operator certificate issued by the IDAC.^[13]

Foreign air operators must fulfil the following two requirements: the obtainment of an operation permit^[14] issued by the JAC; and the obtainment of the acknowledgement certificate issued by the IDAC in accordance with the operation specifications from the origin country.

In addition, in both cases, each air operator's security manual has to be reviewed and approved by the CESAC.

Year in review

In 2024, the air transport industry in the Dominican Republic experienced significant growth, marked by historical events.

On 19 December 2024, the US–Dominican Republic Open Skies air transport agreement came into force. The agreement removed many limits on routes, frequencies, code-sharing and capacity, opening the door to fairer competition and deeper connectivity between both countries. Along with President Luis Abinader's enactment of Law No. 57-23 in 2023, which establishes a fiscal-incentives regime to boost competitiveness, attract more visitors via air, and expand links with strategic markets, these measures reinforce the

Dominican Republic's bid to consolidate itself as a regional hub for passenger and cargo flows and to facilitate trade and investment. The agreement, combined with Law No. 57-23 makes it easier for airlines to launch new city pairs, add capacity, and optimise schedules, which should translate into more choices and better prices for travellers and exporters. The combination is also likely to lift tourism, catalyse investment in airports, MRO (maintenance, repair and overhaul) and logistics, and support quality jobs across the value chain. Together, the Open Skies Agreement and Law 57-23 lay a foundation for faster, market-driven growth.^[15]

Furthermore, the United States' reaffirmation of the Dominican Republic's Federal Aviation Administration (FAA) International Aviation Safety Assessment (IASA) Category 1 rating confirmed that the country's safety oversight meets International Civil Aviation Organisation (ICAO) standards, which represents a concrete upside for the local industry. Category 1 keeps the door open for Dominican carriers to maintain and expand service to US destinations, pursue new code shares, and market more confidently to tour operators and corporate buyers. It also lowers perceived regulatory risk for lenders and insurers, supporting fleet renewal and growth plans, while signalling reliability to US and regional airlines planning additional capacity into Dominican gateways.^[16]

In parallel, lawmakers advanced the modernisation of Law 491-06 through the enactment of Law No. 17-24, which amended 34 articles. The reform explicitly brings remotely piloted aircraft (RPA/drones) into the legal framework, and the Executive has framed it as aligning national rules with ICAO/FAA guidance. Up-to-date rules reduce legal uncertainty, strengthen enforcement, and create predictable pathways for unmanned aircraft systems and other innovative operations;^[17] furthermore encouraging new investment into locally developed services, and safer integration of emerging technologies across the aviation ecosystem. Together with existing IDAC drone procedures, this modernisation equips the Dominican Republic with a more competitive, innovation-friendly rule book that can translate into better service quality, higher productivity, and new revenue streams for operators and airports.

Diplomatically, at ICAO's ICAN 2024 the Dominican Republic signed eight new air services agreements, expanding future market access and route opportunities. The counterparts included Singapore, the United Kingdom, Switzerland, Greece, Latvia, Egypt, Suriname and Cuba.^[18] Several of these frameworks contemplate up to fifth-freedom rights for passengers and seventh-freedom cargo, plus room for code shares and leasing, giving carriers more flexibility to launch routes and add capacity.^[19]

National statistics show that between 2020 and 2024, there were 438,386 air operations entering and leaving Dominican territory. This generated estimated direct and indirect revenues of US\$49.807 billion.^[20] Additionally, during this period, there was an absolute growth of 1,473,352 passengers and a relative increase of 8 per cent compared to 2023.^[21]

Legal framework for liability

International carriage

The Dominican Republic is party to the following multilateral agreements relating to international carriage.

Agreement	Date signed by the Dominican Republic	Date ratified by the Dominican Republic	Effective date of the agreement
Beijing Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation	10 September 2010	27 November 2012	1 July 2018
Beijing Protocol to the 1971 Hague Convention on the Suppression of Unlawful Seizure of Aircraft	10 September 2010	22 March 2013	1 January 2018
Chicago Convention on International Civil Aviation	7 December 1944	25 January 1946	4 April 1947
Hague Hijacking Convention	29 June 1971	22 June 1978	14 October 1971
Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air	12 October 1929	25 February 1972	25 May 1972
Hague Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air	16 March 1957	25 February 1972	25 May 1972
Convention for the Unification of Certain Rules for International Carriage by Air, dated 28 May 1999 (the Montreal Convention)	28 May 1999	21 September 2007	20 November 2007
Multilateral Open Skies Agreement for Member	5 November 2010	2 February 2011	5 August 2012

States of the Latin American Civil Aviation Commission – up to the sixth freedom flights and seventh freedom for cargo			
Air Transport Agreement – Caribbean States Associations – pending definitive signature	12 February 2004	–	–
Memorandum of Understanding on the Liberalization of Exclusive Air Shipment Services between the Civil Aviation Authorities of the undersigned Member States of the Latin American Civil Aviation Commission	15 December 2023	–	–

The Civil Aviation Law, Law No. 188-11 on Airport Security and Civil Aviation (Law No. 188-11) and the regulations issued by the JAC, IDAC and CESAC, to an important extent have implemented the international treaties listed above.

The application of the Civil Aviation Law and its regulations may not contradict the application of the provisions of international treaties and multilateral agreements duly ratified by the Dominican Republic.^[22] Likewise, pursuant to the provisions of Paragraph I of Article 2 of Law No. 188-11, in the event of a contradiction between Law No. 188-11 and the provisions of an international treaty, the provisions of the international treaty shall prevail.

The Dominican Republic is also a party to air service agreements and memoranda of understanding regarding the degree of openness of traffic rights with the following countries:^[23] Antigua and Barbuda, Argentina, Aruba, Austria, the Bahamas, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Curacao, the Czech Republic, China, Dubai, Denmark, Ecuador, El Salvador, Finland, France, Germany, Guatemala, Guyana, Hungary, Haiti, Iceland, India, Ireland, Israel, Italy, Jamaica, Jordan, Kuwait, Kenya, Luxembourg, Latvia, Malaysia, Mexico, Morocco, the Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Paraguay, Peru, Portugal, Poland, Qatar, Russia, Rwanda, Saint Martin, Saudi Arabia, Serbia, the Seychelles, Spain, Switzerland, Sweden, Singapore, South Africa, Sri Lanka, Suriname, Trinidad and Tobago, Turkey, the United Arab Emirates, the United Kingdom, the United States, Uruguay and Venezuela.

Internal and other non-convention carriage

Pursuant to the provisions of Article 191 of the Civil Aviation Law, the operator of any aircraft that flies over the territory of the Dominican Republic shall be liable for all damage caused to third parties or to the property of third parties located on the ground. The affected party has the right to receive compensation when the damage was caused by an aircraft in flight or by any part or any object that falls from such an aircraft.^[24]

Passenger rights

National and foreign air carriers shall indemnify damage caused by the death or by any injury suffered by a passenger as a consequence of the transportation. Such damage includes physical as well as mental injuries. Air carriers shall also compensate passengers for damage arising out of the loss, destruction or delay of the cargo or baggage.^[25] The obligation to compensate for the damage described above includes damage caused by force majeure.^[26]

Other legislation

For cases not contemplated by the Civil Aviation Law or by the regulations, rules and norms governing the IDAC and the JAC, the general principles of aviation law shall be applicable; and, in the absence of these principles, then the general principles of the common law of the Dominican Republic shall be applicable.^[27]

Licensing of operations

Licensed activities

Pursuant to the provisions of the Civil Aviation Law, all activities relating to civil, national or foreign aircraft, their owners, operators, crew, passengers and cargo, and any person involved in aviation activities within the Dominican territory that departs from, lands on, overflies or in any other way falls within the jurisdiction of national sovereignty, will be regulated by this law and will be subject to the jurisdiction of the JAC, the IDAC and the CESAC.

The following types of authorisation are granted by the above-mentioned institutions:

1. economic authorisation certificate for national air carriers;
2. operation permit for foreign air carriers;
3. air operator certificate for national air carrier;
4. consignee licences;
5. aircraft registration for national aircraft;
6. mortgage registration for national aircraft;
7. charter flight authorisations;
8. code-share agreement authorisations;

9. security manual approval; and
10. operations specification approval.

Most of these authorisations must be renewed after a specific period. For example, the operation permit must be renewed every three years. In addition, most of these authorisations require that the air carriers keep current their security manual, corporate documents and tax obligations in the Dominican Republic and payments to the corresponding authorities.^[28]

Ownership rules

In principle, international public air transportation services are reserved for Dominican air operators. Such services may be granted to foreign air operators when the Dominican Republic has signed and ratified agreements or treaties with the country of origin of the requesting foreign air operator.^[29]

Pursuant to the provisions of the Civil Aviation Law,^[30] to be considered a national air carrier, companies incorporated and in existence pursuant to the laws of the Dominican Republic must also comply with the following requirements:

1. at least 35 per cent of the company's capital or substantial property shall be owned by Dominican physical persons or entities, and 35 per cent of the members of the board of directors shall be Dominican;
2. at least 51 per cent of the company' managers (who are not members of the board) must be Dominicans;
3. the principal place of business shall be located in the Dominican Republic; and
4. 100 per cent of the company's capital may be owned by foreign investors, as long as the investment belongs to an internationally recognised foreign air carrier or to a branch controlled by such an air carrier, authorised by the executive branch of government.

To obtain the corresponding certificate of economic authorisation, the JAC requires that national air carriers file the following documents (among others).^[31]

1. certified copies of the company's corporate documents,^[32]
2. request form issued by the JAC;
3. power of attorney of the local representative of the applicant (if applicable);
4. certification of no criminal record, issued by the General District Attorney's Office, for each shareholder of the company;
5. evidence of approval of the company's Security Manual by the CESAC;^[33]
6. original insurance policy on civil liability, issued in accordance with the requirements of the JAC;
7. passenger compensation policy;
8. the company's financial statements corresponding to the previous fiscal period;

9. business plan and feasibility study including, among other requirements, an operational study showing the capacity to operate the business (aircraft, capacity, human resources, etc.), a financial study showing the financial capacity to operate the business and estimated results for the upcoming months;^[34]
10. certification issued by the Social Security Treasury confirming their enrolment;
11. copy of the taxpayer identification card;
12. copy of the company's current version of the mercantile registry certificate;
13. annual declaration of income tax (IR-2) presented before the Internal Taxes General Directorate (DGII), if applicable; and
14. certification issued by DGII confirming that the company is up to date with the payment of its fiscal obligations.

Foreign carriers

Foreign air carriers interested in operating in the Dominican Republic shall be duly approved to carry out international air transportation services by the corresponding civil aviation authorities of their country of origin. In addition, it is necessary that a bilateral agreement between the country of origin and the Dominican Republic has been executed and ratified. In the event that a bilateral agreement has not been executed, the foreign air carrier must present proof of reciprocity issued by the government of the country of origin in favour of Dominican air transportation companies.^[35]

Once the existence of a bilateral agreement or proof of reciprocity with the Dominican Republic is confirmed, all foreign air carriers are required to obtain the following authorisations to operate: (1) establishment of a branch; (2) a certificate of compliance with the aviation security standards (AVSEC) requirements issued by the CESAC; (3) operation permit issued by the JAC; and (4) an acknowledgement certificate issued by the IDAC.

These requirements may vary depending on the capacity of the aircraft that will be operated.

Establishment of a branch

To establish a branch in the Dominican Republic, a foreign air carrier must obtain a mercantile registry certificate and a taxpayer identification number. This process takes approximately two months but in certain cases can take less time. Once this process is completed, the foreign air carrier must proceed with filing the application for the obtainment of the corresponding operation permit from the JAC.

Certificate of compliance with the AVSEC requirements, issued by the CESAC

To obtain the certificate of compliance, foreign air carriers must file their security manual for their operations in the Dominican Republic in Spanish. This process may be undertaken jointly with the application for the operation specifications approval, and usually takes 90 days.^[36]

Operation permit issued by the JAC

Before the JAC grants the operation permit it will evaluate whether the foreign air carrier is qualified and competent to carry out international commercial air transportation services, and complies with the provisions of the Civil Aviation Law. To fulfil these requirements, the foreign air carrier must file the following documents:

1. authorisation for the exploitation of the requested routes from the country where the foreign air carrier is established;
2. request form issued by the JAC;
3. incorporation documents of the foreign air carrier (certificate of formation, operating agreement, articles of association, etc.) notarised and legalised at the nearest Dominican consulate (or legalised according to the Apostille Convention, if applicable);
4. power of attorney for the local representative, duly notarised and apostilled;
5. copy of the branch's mercantile registry certificate;
6. copy of a valid air operator certificate;
7. original of the insurance certificate;
8. certificate from the CESAC indicating that the foreign air carrier's security complies with the AVSEC requirements;^[37]
9. copy of the taxpayer identification card;
10. passenger compensation policy;
11. marketing study of the requested routes indicating passenger projections, cargo (demand), competence analysis (the different airlines that cover these routes), destination (offer), market shares and the schedule of the requested routes;^[38] and
12. payment of a fee of US\$5,000.

The JAC may request additional documents or information that it considers necessary. Once the filing is completed, the JAC's legal department will review the request and submit it for the approval of the board at its next meeting. The board usually holds two meetings per month. The JAC approval takes approximately 45 days from the filing of all the documents. The operation permit will be valid for three years. Once this process is complete, the foreign air carrier must proceed with the application for the operation specifications from the IDAC.

Acknowledgement of a foreign operator certificate issued by the IDAC

To obtain the acknowledgement of a foreign operator certificate, the following documents and information will be required:

1. the company's name, address, main base of operations abroad and in the Dominican Republic, fax number, email addresses and website information;

2. map with the routes authorised by the JAC, indicating the destination and alternative airports in the Dominican Republic (in digital format);
3. name, telephone number, fax, email and address of the maintenance director, chief pilot and quality control director, or equivalent officers;
4. name, telephone, number, fax, email and address of the legal representative in the Dominican Republic;
5. name, telephone number, fax, email and address of the executive technical staff in the Dominican Republic;
6. copy of the air operator's certificate;
7. copy of the operation permit issued by the JAC;
8. copy of the maintenance and ticket-counter service agreement with the provider in the Dominican Republic, if applicable, and civil liability insurance;
9. name, telephone number, fax, email and address of the chief operations inspector and chief maintenance inspector from the country of origin of the air carrier;
10. runway analysis of the destination and alternative airports in the Dominican Republic (in digital format);
11. copy of the operations specifications issued by the relevant civil aviation authorities of the country where the foreign air carrier is established (in both paper and digital format);
12. maintenance control manual, approved by the authorities of registration of the aircraft (in digital format);
13. copy of the maintenance manual and maintenance programme for each type of aircraft (in digital format);
14. copy of the operations manual indicating the sections that have been approved by the country of origin (in digital format);
15. registration certificates of all the authorised aircraft;
16. configuration of the aircraft: number of passengers, cargo capacity, maximum take-off weight and proof of compliance with the traffic collision avoidance system; make, model, registration number, serial number, navigation equipment (in digital format); and
17. minimum equipment lists, approved by authorities of registration of the aircraft.

The IDAC approval takes approximately 40 working days from the filing of all the aforementioned documents. The IDAC reserves the right to request additional documents after reviewing the initial submission.

Safety

The safety aspects of civil aviation in the Dominican Republic are regulated by two different institutions: the IDAC and the CESAC.

The IDAC is, among other things, responsible for the oversight of security in air navigation and for ensuring operational safety, including the operation of aircraft, crew and air transportation services in the Dominican Republic. In particular, safety issues are regulated by the Dominican Aviation Regulations, which are issued by the IDAC in accordance with international treaties and agreements.

The CESAC, as indicated above, is in charge of the security of passengers, crew, ground staff and the general public, aircraft, airports and aerodromes, and of the infrastructure and facilities that provide civil aviation services. The CESAC will only grant a certificate of compliance if the security manual of the air carrier complies with the AVSEC requirements. To obtain the certificate of compliance, foreign air carriers must file the security manual for their operations in the Dominican Republic. The security manual must contain at least the following:

1. organisation of and regulations regarding air security;
2. passenger and cabin baggage security;
3. hold baggage security;
4. crew hand and hold baggage security;
5. passenger and cargo collation;
6. aircraft security;
7. provisions, supplies and spare part security;
8. security of the aircraft cleaning operations;
9. cargo, mail, packages and correspondence security;
10. staff hiring;
11. staff training;
12. contingency planning;
13. incident reporting procedures;
14. supervision and vigilance; and
15. local airport procedures.

Insurance

Before it grants an operation permit to a foreign air carrier or an economic authorisation certificate to a national air carrier, the JAC will verify the existence of an insurance certificate in accordance with the following provisions:^[39] (1) policy liability coverage, which could be established by a combined single limit, for any occurrence, in the event of damage, death and bodily injury to passengers; (2) destruction or loss or damage to baggage and cargo; and (3) delays in the air transportation of passengers, baggage or cargo. These provisions indicate the following limits of liability:

1. death and injury to passengers; damage to baggage;^[40]

2. damage to passengers, baggage or cargo as a result of air carrier delays;^[41]
3. damage caused by destruction, loss or harm to the cargo;^[42]
4. damage caused by destruction, loss or harm to checked baggage, when it occurs on board the aircraft or in the custody of the air carrier;^[43]
5. death of and injury to passengers; and
6. damage and injury caused by the air carrier to third parties or their property when the aircraft is grounded.^[44]

The minimum amount of the certificate of liability insurance for national or foreign air carriers that operate international flights will be established by the Montreal Convention, as follows.

Coverage	Special drawing rights (SDRs)	Amount in US dollars (1 SDR = US\$1.43)*
Death of and injury to passengers; damage to baggage (Articles 17 and 21 of the Montreal Convention)	151,800 SDRs per passenger	US\$217,650.99
Damage to passengers, baggage or cargo as a result of air carrier delay (Articles 19 and 22, Part I of the Montreal Convention)	6,303SDRs per passenger	US\$9,037.25
Baggage transport – destruction, loss, harm or delay of checked baggage (Article 22 of the Montreal Convention)	1,519SDRs per passenger	US\$2,177.94
Cargo transport – destruction, loss, harm or delay (Article 22 of the Montreal Convention)	26 SDRs per kilogram	US\$37.28 per kilogram
* Rate as of 28 December 2024		

Competition

Dominican law does not include specific competition regulation for the aviation industry. However, all industries are subject to the provisions of Law No. 42-08 on the Defence of Competition (Law No. 42-08) (i.e., concerning antitrust), which has the primary objective of promoting and defending the effective competitiveness of all industries to increase the economic efficiency of all markets of goods and services, and to create benefit and value in favour of consumers within the Dominican territory.^[45] In addition, the Dominican

Constitution reserves the right to create monopolies in favour of the government.^[46] Law No. 42-08 applies to all areas of economic activity and to all economic agents, including acts or agreements that may have originated outside the Dominican Republic but restrict competition within the Dominican territory.^[47] All acts, agreements and arrangements among competing economic agents, express or implied, verbal or written, with the objective or effect of imposing unjustified barriers in the market are considered to be concerted practices and anticompetitive agreements and are prohibited by Law No. 42-08. In this regard, the following activities are considered to be concerted practices and anticompetitive agreements:

1. to agree to impose prices, discounts, extraordinary charges or other selling conditions, as well as to exchange information that would produce the same objective or effect;
2. to coordinate on or agree on offers or on the withdrawal from bidding processes, tenders or contests;
3. to distribute or assign segments or sections of goods or services markets assigning a specific time or space, providers or clients;
4. to limit the production, distribution or commercialisation of goods or the rendering or frequency of services without regard to their nature; and
5. to eliminate competitors from the market or limit their access.^[48]

Law No. 42-08 does not set out any provisions on mergers or corporate reorganisations.

Under the Civil Aviation Law, code-share agreements, which are common in the aviation industry, require the approval of the JAC, which, as part of the approval process, will evaluate the competition aspects of such agreements and their implications for consumers in the Dominican Republic. Foreign air carriers applying to the JAC for an operation permit to operate in the Dominican Republic are also subject to this evaluation process.^[49] As of October 2019, the JAC had approved 16 code-share agreements involving more than 41 routes. In 2022, 14 new code-share agreements were approved, involving 13 new routes.

Wrongful death

Law No. 491-06 on Civil Aviation provides that air operators, both national and foreign, must indemnify damage caused by death or injuries suffered by a passenger because of transportation. In addition, damage to individuals located at land level must be indemnified, provided that the damage is derived from the operation of the aircraft or from parts that fall from it.

Law No. 491-06 further indicates that the term 'injury' includes bodily injuries, as well as damage caused to an individual's mental capacity. This indemnification obligation also applies in cases where damage is caused by fortuitous events or force majeure.

Establishing liability and settlement

Procedure

In the Dominican Republic, the mechanisms to settle claims are judicial procedures, arbitration, mediation and conciliation.

For cases where the Montreal Convention is applicable, any action must be brought within two years, reckoned from the date of arrival at the destination, or from the date that the aircraft ought to have arrived, or from the date on which the carriage stopped.^[50] The determination of the parties that may be joined in actions for compensation will depend on the type of claim and the situation that caused the claim. For instance, if the claim is for loss of baggage, the carrier will be the only one involved.

The allocation of liability will be determined by the participation of each defendant in the chain of liability.

Carriers' liability towards passengers and third parties

The liability of the air carrier towards passengers and third parties will depend on the type of case at hand. For cases involving international carriage, the provisions of the Montreal Convention would be applicable. These provisions are widely recognised by Dominican courts.

Product liability

In addition to the provisions of the Montreal Convention, the Civil Aviation Law regarding passenger rights described in 'Passenger rights', above, and Articles 198 to 203 of the Civil Aviation Law regarding damage caused by the collision of aircraft or during boarding or disembarking, there are no other relevant provisions in Dominican legislation specifically regulating manufacturers' and owners' liability to passengers and operators.

Notwithstanding the above, the Dominican Consumer Law^[51] aims to protect the economic interests of consumers through equitable treatment and the prevention of discriminatory or abusive behaviour on behalf of providers of goods and services, and it contains general principles that shall be followed by all service providers in the country.

Compensation

In addition to the compensation set out by the Montreal Convention, the Dominican Republic recognises material damages, which include corporal damages, and moral damages, which are those concerning mental capabilities.^[52]

The Dominican Republic does not have state-funded social security or medical support for those incapacitated in aviation accidents.

Drones

The use of remotely piloted aircraft systems (RPAs) or drones in the Dominican Republic has increased, with more individuals and companies using them for the construction industry, agriculture, marketing and other activities. As a result, in 2015 the IDAC issued Resolution No. 008/2015, which regulates the use and operation of RPAs or drones within the national territory. This Resolution is transitory, as it will be replaced once the ICAO adopts and publishes regulations regarding RPAs and, consequently, the IDAC issues a new resolution in this regard.

Pursuant to Resolution No. 008/2015, individuals and entities that perform recreational activities with RPAs weighing less than 4.4 lb are not required to obtain an authorisation from the IDAC to operate RPAs. However, they need to comply with the flying requirements and restrictions included in the Resolution. On the other hand, individuals and entities that carry out air operations with RPAs weighing from 4.4 lb up to 55 lb will need to register the RPAs before the IDAC and obtain the corresponding registration card for the aircraft, as well as register as RPA operators and obtain the corresponding licence, which will be valid for 24 months.

On 23 February 2021, the IDAC issued Resolution No. 007/2021, which amended the Dominican Aeronautical Ruling to include (among other things) infractions and sanctions applicable to the operation of RPAs.

In 2024, the Dominican Republic overhauled its drone regime by enacting Law No. 17-24, which amends Law 491-06 to formally bring remotely piloted aircraft (RPAs/unmanned aircraft system (UAS)) into the aviation statute, align oversight with ICAO/FAA guidance, and strengthen the legal basis for sanctions and enforcement. Operationally, IDAC now channels day-to-day compliance through its 'Vuela Seguro'/UAS portal, where operators register drones and request special permits (Form IDAC-1500-9)^[53] ^[54] The agency's UAS page makes clear that any UAS over 0.55 lb (250 g) must be registered, while aircraft over 4.4 lb (2 kg) require an operating permit, a threshold re-affirmed by IDAC in February 2024 and rooted in Resolution 008-2015 (which remains the practical baseline alongside RAD-107 for operations and RAD-48 for registration/labelling). The framework is clearer and tougher, register when required, obtain permits when weight, purpose, or airspace demand it, and use the IDAC portal for authorisations.^[55] Thanks to Law 17-24, authorities have stronger tools to enforce safety and stop unsafe or non-compliant flights.

Voluntary reporting

Law No. 491-06 on Civil Aviation provides that owners, operators and crew members of civil aircraft must notify the IDAC immediately regarding accidents and incidents affecting the aircraft within the territory of the Dominican Republic or abroad if the aircraft have Dominican registration.^[56] Authorities must also notify the IDAC of the occurrence of any accident.^[57]

In addition to the aforementioned, mandatory reporting obligations, by means of Resolution No. 003/2015,^[58] the IDAC created PEGSO, the operational security state programme of the Dominican Republic. PEGSO describes the responsibilities of the state as regards operational security management and provides that the IDAC will implement means for voluntary and confidential reporting of matters that might negatively affect operational security.^[59]

In this context, the IDAC created the confidential voluntary reporting system SIAGA RVC, which is an online platform that facilitates the gathering of information regarding operational security deficiencies, real or potential, which might not be detected through mandatory reporting mechanisms. This platform allows for voluntary and confidential reporting by means of an online form that can be filled out anonymously.

Outlook and conclusions

After a breakout year in 2023, 2024 surpassed expectations for Dominican aviation – thanks to the enactment of Law No. 57-23 in 2023, which establishes tax incentives for national civil aviation. Passenger traffic climbed to around 8 per cent year-over-year, from 17,530,010 in 2023 to 19,003,262 in 2024. This momentum solidified the country's position as a leader in the commercial aviation market in Latin America. The increase in visitor flow and the expansion of international connections contributed to generating significant economic income and job recovery in the sector. Furthermore, the signing of cooperation agreements demonstrated the Dominican Republic's commitment to strengthening and expanding air transportation in the region, laying the groundwork for a prosperous and collaborative future in the next decade.

2024 was marked by expansion and policy victories. The US–Dominican Republic Open Skies agreement entered into force on 19 December 2024, unlocking more flexible routes, capacity and pricing between both countries. The Dominican Republic also maintained FAA IASA Category 1 on 15 September 2024, preserving growth options to the US market and signalling strong safety oversight. The Dominican Congress completed a major statutory refresh: Law 17-24. Law 17-24 amended 34 articles of Law 491-06 and formally brought drones (RPA/UAS) into the legal framework, aligning oversight with ICAO/FAA and strengthening enforcement. Diplomatically, the country signed eight new air-services agreements at ICAO's ICAN 2024 (Kuala Lumpur), widening future market access; globally, ICAN 2024 generated nearly 500 agreements across participating states, underscoring the scale of connectivity opportunities now in play. On the airport side, AERODOM/VINCI's concession extension to 2060 (granted at the end of 2023) shaped the 2024 roadmap, with VINCI launching US\$30m in near-term upgrades at Las Américas (remodelling arrivals, roofs/facades, lighting/IT/HVAC, expanded parking) as a bridge to the larger terminal investment. Furthermore, AERODOM/VINCI Airports reported record-breaking passenger traffic at the six Dominican airports it manages, with a total of 6.85 million passengers in 2024, a 4 per cent increase compared to 2023. Las Américas International Airport (AILA) led with 5.81 million passengers, setting a new record, while Gregorio Luperón International Airport in Puerto Plata saw a 19 per cent growth, surpassing pre-pandemic figures with over 880,000 passengers. On the eastern side of the island, only in December 2024, Punta Cana International Airport, the busiest in the country, handled 956,823 passengers compared to December 2023, representing a 10 per cent growth.

Alongside policy wins, Punta Cana's Air Cargo Hub officially began operations in May–July 2024 as a joint effort between Punta Cana Free Trade Zone (PCFTZ) and DP World Dominicana, receiving its first freighter (Air Canada Cargo B767F) on 22 May 2024 and launching regular cargo flows through Punta Cana International Airport. The hub sits inside

the PCFTZ and is designed as a multi modal platform linked to the airport, with dedicated warehousing and handling space that PCFTZ markets as a regional distribution node.^[60]

2025 will also be a promising year. The government and AERODOM broke ground on SDQ's new passenger terminal in August 2025 – an investment of about US\$250 million that adds around 4 million passengers of annual capacity, a 50,000 m² new apron, up to 13 aircraft stands, and 900 parking spaces, targeting opening around 2028.^[61] The logistics push at the same airport advanced with Customs (DGA) inaugurating a 24/7 courier terminal to accelerate e-commerce throughput and strengthen the hub proposition.^[62] VINCI and the state framed these moves within the longer-term 2060 concession roadmap, which pairs capacity growth with sustainability upgrades with Open Skies in force, Category 1 intact, and fresh bilateral headroom from ICAN 2024, the ingredients are in place for another year of expanded connectivity, competitive fares, and deeper cargo capability

Endnotes

- 1 www.jac.gob.do. ^ [Back to section](#)
- 2 Junta de Aviación Civil | JAC - Líneas Aéreas y Consignatarios - Líneas Aéreas y Consignatarios, <https://jac.gob.do/lineas-aereas-y-consignatarios/>. ^ [Back to section](#)
- 3 <https://jac.gob.do/wp-content/uploads/2025/09/Operadores-Aereos-ExtranjerosVersion-Num.196-25-de-septiembre-de-2025.pdf>. ^ [Back to section](#)
- 4 Law No. 491-06 on Civil Aviation, Official Gazette No. 10399 of 28 December 2006, as amended by Law No. 17-24, Official Gazette No. 11151 of June 6, 2024. ^ [Back to section](#)
- 5 Article 2 of the Civil Aviation Law. ^ [Back to section](#)
- 6 Article 7 of the Civil Aviation Law. ^ [Back to section](#)
- 7 <https://jac.gob.do/index.php/publicacion/cuadro-de-acuerdos>. ^ [Back to section](#)
- 8 The JAC was created in 2006 by Law No. 491-06. ^ [Back to section](#)
- 9 Created by the Civil Aviation Law. ^ [Back to section](#)
- 10 CESAC was created by Law No.188-11 on Aviation Security and Civil Aviation. Official Gazette No. 10628, dated 22 July 2011. CESAC was created in response to security recommendations under the Chicago Convention on International Civil Aviation. ^ [Back to section](#)
- 11 An air operator is any national entity directly or indirectly dedicated to national or international commercial air transportation. ^ [Back to section](#)

- 12 A foreign air operator is any non-national operator directly or indirectly in charge of carrying on commercial air transportation to or from the Dominican Republic. ^ [Back to section](#)
- 13 Both certificates may be requested concurrently. ^ [Back to section](#)
- 14 The operation permit is the permission granted to foreign air operators by the JAC. ^ [Back to section](#)
- 15 Senado de la Republica, Senado aprueba en segunda lectura proyecto modifica 34 artículos a Ley 491-06 sobre Aviación Civil de RD, <https://www.senadord.gob.do/senado-aprueba-en-segunda-lectura-proyecto-modifica-34-articulos-a-ley-491-06-sobre-aviacion-civil-de-rd/>. ^ [Back to section](#)
- 16 IDAC, Federal Aviation Administration Ratifies Dominican Republic as a Category 1 After Rigorous Air Safety Audit, <https://www.idac.gob.do/en/federal-aviation-administration-ratifies-dominican-republic-as-a-category-1-after-rigorous-air-safety-audit/>. ^ [Back to section](#)
- 17 <https://www.senadord.gob.do/senado-aprueba-en-segunda-lectura-proyecto-modifica-34-articulos-a-ley-491-06-sobre-aviacion-civil-de-rd/>. ^ [Back to section](#)
- 18 <https://www.diariolibre.com/economia/turismo/2024/10/29/rd-firma-ocho-acuerdos-para-fortalecer-la-conectividad-aerea/2895397>. ^ [Back to section](#)
- 19 <https://jac.gob.do/noticias/republica-dominicana-fortalece-su-liderazgo-en-la-aviacion-civil-con-firma-de-8-nuevos-acuerdos-en-ican-2024-y-acepta-la-sede-de-ican-2025/>. ^ [Back to section](#)
- 20 <https://presidencia.gob.do/noticias/fortalecimiento-sin-precedentes-de-la-aviacion-civil-en-actual-gestion-mas-de-438836>. ^ [Back to section](#)
- 21 <https://presidencia.gob.do/noticias/fortalecimiento-sin-precedentes-de-la-aviacion-civil-en-actual-gestion-mas-de-438836>. ^ [Back to section](#)
- 22 Article 2 of the Civil Aviation Law. ^ [Back to section](#)
- 23 www.jac.gob.do/index.php/sobre-nosotros/cuadro-de-acuerdos. ^ [Back to section](#)
- 24 Article 193 of the Civil Aviation Law. ^ [Back to section](#)
- 25 Article 194 of the Civil Aviation Law. ^ [Back to section](#)
- 26 Article 197 of the Civil Aviation Law. ^ [Back to section](#)
- 27 Article 3 of the Civil Aviation Law. ^ [Back to section](#)

- 28 The requirements for these authorisations may vary depending on the type of air carrier and activity. [^ Back to section](#)
- 29 Article 220 of the Civil Aviation Law. [^ Back to section](#)
- 30 Article 237 of the Civil Aviation Law, as amended by Law No. 67-13. [^ Back to section](#)
- 31 The Requirement Manual of the JAC was amended by Resolution No. 131-(2019). [^ Back to section](#)
- 32 Other requirements apply depending on the capacity of the aircraft that will be operated. Additionally, depending on the type of operation, the JAC may require proof of availability of funds for the sustainment of operations. The manner in which this proof can be provided, as well as the funds that shall be available, varies depending on the capacity of the aircraft that will be operated. In addition, social capital requirements vary depending on the type of corporate vehicle of the applicant. [^ Back to section](#)
- 33 The JAC will also accept evidence of application for approval of the Security Manual before the CESAC. [^ Back to section](#)
- 34 These requirements may vary depending on the capacity of the aircraft that will be operated. [^ Back to section](#)
- 35 Article 240 of the Civil Aviation Law. [^ Back to section](#)
- 36 This period is usually subject to substantial delays as a result of backlog. [^ Back to section](#)
- 37 The JAC will also accept evidence of an application for approval of the Security Manual before the CESAC. [^ Back to section](#)
- 38 This requirement may be waived if the requested routes have been operated, continuously, in the past two years for two or more months as charter flights. [^ Back to section](#)
- 39 Requisite Manual of the JAC. [^ Back to section](#)
- 40 Articles 17 and 21 of the Convention for the Unification of Certain Rules for International Carriage by Air, dated 28 May 1999 (the Montreal Convention). [^ Back to section](#)
- 41 Articles 19 and 22, Part I of the Montreal Convention. [^ Back to section](#)
- 42 Article 18, Part I and Article 22, Part III of the Montreal Convention 1999. [^ Back to section](#)
- 43 Articles 17 and 22 of the Montreal Convention. [^ Back to section](#)

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- 54 <https://www.idac.gob.do/drone/vuela-seguro/>. [^ Back to section](#)
- 55 <https://www.idac.gob.do/es/idac-aclara-sobre-permiso-uso-de-drones>. [^ Back to section](#)
- 56 Article 276 of Law No. 491-06 on Civil Aviation. [^ Back to section](#)
- 57 Article 277 of Law No. 491-06 on Civil Aviation. [^ Back to section](#)
- 58 <https://www.idac.gob.do/es/resoluciones-2015/>.
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- 59 <https://ssp.idac.gob.do/PEGSO/download;jsessionid=3C6CBCB1479FCB8BC1844E18DCA5E38D?id=809136750&dir=docs>. [^ Back to section](#)
- 60 Infotur Dominicano, DP World anuncia inicio de operaciones del hub de carga aérea en el Aeropuerto Intl. de Punta Cana, <https://infoturdominicano.com/rd/dp-world-anuncia-inicio-de-operaciones-del-hub-de-carga-aerea-en-el-aeropuerto-internacional-de-punta-cana/>. [^ Back to section](#)
- 61 <https://www.diariolibre.com/economia/turismo/2025/08/13/primer-picazo-para-una-nueva-terminal-de-us250-millones-en-aila/3212424>. [^ Back to section](#)
- 62 <https://www.aduanas.gob.do/noticias/presidente-abinader-y-yayo-sanz-lo-vaton-inauguran-en-el-aila-nueva-terminal-courier-para-manejo-de-mercancia-comprada-por-internet/>.
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Introduction

Access to the market

According to European Union law, any Community air carrier may freely set fares and rates for the carriage of passengers and cargo and may access any route within the European Union without permit or authorisation if it has an air operator's certificate and an operating licence.^[1]

Moreover, to operate a civil aerodrome that receives commercial traffic, it is necessary to have an airport safety certificate for that aerodrome from the minister responsible for civil aviation.^[2]

Finally, the construction of an aerodrome intended for public air traffic, when it does not belong to the state, is subject to the conclusion of an agreement between the minister in charge of civil aviation and the natural person or legal entity that builds the aerodrome.^[3]

Regulation of slots

Council Regulation (EEC) No. 95/93 of 18 January 1993, as amended, lays down in Article 8 the procedure for the allocation of slots. The available slots constitute a pool from which the coordinator draws to satisfy air carriers' requests for a given scheduling period. At the end of this period the slots are returned to the pool.

A carrier that has operated a slot approved by the coordinator may apply for the same slot in the next corresponding scheduling period. However, when all requests for slots made by carriers cannot be accommodated, the coordinator informs the requesting air carrier of the reasons and indicates the nearest alternative slot.^[4]

Slots at congested airports must be allocated to air carriers on a neutral, non-discriminatory and transparent basis by an independent slot coordinator.^[5] In France, the association in charge of slot allocation is called the COHOR; it brings together most air carriers and the most important airports.^[6]

For the period during which air transport was negatively affected by the covid-19 crisis, air carriers that failed to use their slots in accordance with the slot utilisation rate set out in Council Regulation (EEC) No. 95/93 did not automatically lose their precedence.^[7]

Since summer 2023, the standard '80-20' slot utilisation rule has been reinstated across the EU. A structural reform of Regulation (EC) No. 95/93 remains under review.

Treaty-based commitment regarding transit and traffic rights

Pursuant to European harmonisation, European air carriers can operate flights within the European Union without prior authorisation. However, other scheduled and unscheduled flights from or to France still require a prior authorisation.

Non-scheduled and scheduled air services from and to France are regulated by bilateral conventions, by Regulation (EC) No. 1008/2008 of 24 September 2008 on common rules for the operation of air services in the Community and by the Civil Aviation Code.

Interest in aircraft equipment

Any aircraft listed in the French Register can be subject to a contractual mortgage.^[8] The mortgage must be in writing and the deed of incorporation may be authenticated or signed privately. Finally, every mortgage shall be entered in the Register.^[9]

Government policy and state aid

According to the guidelines published on 4 April 2014 by the European Commission on state aid to airports and air carriers, public subsidies must comply with Article 107 et seq. of the Treaty on the Functioning of the European Union (TFEU). An aid measure is considered compatible with the internal market provided that the following cumulative conditions are met:

1. a contribution to a well-defined objective of common interest;
2. a need for state intervention; the appropriateness of the aid measure;
3. incentive effect: the aid must change the behaviour of the undertakings concerned in such a way that they engage in additional activity that they would not carry out without the aid, or would carry out in a restricted or different manner or location;
4. the proportionality of the aid (aid limited to the minimum);
5. the avoidance of undue negative effects on competition and trade between Member States; and
6. transparency of the aid.

Labour and employment issues

Labour and employment issues are governed by the Labour Code and relevant collective agreements.

In the particular context of the covid-19 crisis, Decree No. 2020-435 of 16 April 2020, as amended, on emergency measures for partial activity has been adopted.

Also in this context, Law No. 2020-734 of 17 June 2020 has created a long-term partial activity regime for companies incurring substantial losses. At least one major airline has entered into a long-term partial activity agreement with its employee's union.

To try to fight abuse in respect of certain favourable provisions of the European-Posted Workers Regulation, Articles R.6412-13 and R.6412-14 of the Transport Code^[10] provide that French employment law applies as long as an activity is carried out on a stable and continuous basis in France.

Civil aviation regulatory regime

Civil aviation is subject to the Civil Aviation Code and the Transport Code. It is also subject to several international conventions (e.g., the Warsaw Convention of 1929, the Montreal Convention of 1999 and the Chicago Convention of 1944) and professional sources (in

particular, the general conditions of carriage of the International Air Transport Association) and European sources, via numerous regulations. EU regulations apply concurrently with national provisions, as they are directly applicable to domestic law pursuant to Article 288 of the TFEU.

The regulators and their powers

Air transport is a highly regulated activity. The European Union Aviation Safety Agency (EASA) is responsible for ensuring safety and environmental protection in air transport in Europe.

In France, the industry is regulated by the Directorate General for Civil Aviation (DGCA), attached to the Ministry of Sustainable and Ecological Transition. The mission of the DGCA is to guarantee the safety and security of air transport. It deals with all areas of civil aviation, inter alia, sustainable development, safety, security, air traffic control, economic regulation, support for aircraft construction, general aviation and aeronautical training.^[11]

Finally, the Transport Regulatory Authority regulates aerodromes whose annual traffic exceeded 5 million passengers in any of the previous five calendar years.^[12] The Transport Regulatory Authority approves the tariffs of charges for airport public services rendered at aerodromes open to public air traffic, and their modulations.^[13]

Year in review

In France, after a 74.9 per cent drop in January 2021, the DGCA's air traffic index shows that, in 2024, the air traffic is equivalent to 99.1 per cent of the traffic for the same period in 2019.^[14] This figure demonstrates that air traffic has recovered from the pandemic. Indeed, in February 2022, the air traffic index was only equivalent to 63.4 per cent of traffic for the same period in 2019. The current index shows that the air traffic has almost reverted to its pre-pandemic level.

On 29 December 2023, Law No. 2023-1289 providing for the reform of the regulation of air traffic controllers' right to strike in France has been officially enacted. The law requires any air traffic agent whose absence could directly impact flights to individually declare their participation in a strike by noon two days prior. This change aims to provide more accurate estimations of the number of strikers, potentially reducing unnecessary flight cancellations due to discrepancies between available controllers and scheduled flights.

A Decree of 22 May 2023 banning short-haul flights was enacted by virtue of Law No. 2021-1104, known as the Climate Resilience Law. Consequently, Article R. 6412-21 of the Transport Code now bans public air travel services for passengers, if a train connection between the train stations of the same cities ensures a journey time of less than two-and-a-half hours without switching trains, as long as this option is offered multiple times per day and with convenient schedules, allowing passengers a stay of more than eight hours on site, all year round.

Effective 28 December 2024, the International Civil Aviation Organization's (ICAO) five-year review increased the Montreal Convention limits to 151,880 special drawing rights (SDR)

per passenger for death or injury, 1,519 SDR per passenger for baggage, 6,303 SDR per passenger for delay, and 26 SDR per kilogram for cargo.

From 2025, Regulation (EU) No. 2023/2405 requires EU airports and fuel suppliers to ensure a minimum share of sustainable aviation fuel available to aircraft, starting at 2 per cent in 2025 and rising on a fixed trajectory toward 2050.

Finally, France completed the transposition of the revision of the EU Emissions Trading System (ETS) for aviation: Law No. 2024-364 of 22 April 2024 introduced the legislative basis in the Environment Code, followed by Decree No. 2024-546 of 14 June 2024 and Decree No. 2024-775 of 8 July 2024. An order of 31 July 2024 fixed the amount of free allowances for aircraft operators for 2024–2025. Together, these texts implement Directive (EU) No. 2023/958 in France and frame the phase-out of free allowances for aviation.

Legal framework for liability

International carriage

France, in addition to applying EU regulations, is part of several international conventions related to carrier liability:

1. the Warsaw Convention: signed and ratified on 15 November 1932 and entered into force on 13 February 1933;
2. the Hague Protocol of the Warsaw Convention: ratified on 19 May 1959 and entered into force on 1 August 1963;
3. the Guadalajara Supplementary Convention: ratified on 24 January 1964;
4. the Guatemala City Protocol: signed on 8 March 1971 but never entered into force;
5. the Tokyo Convention: ratified on 10 September 1970 and applicable since 10 December 1970;
6. Protocols 1 and 2 of the Montreal Convention: ratified on 11 February 1982;
7. the Montreal Convention of 28 May 1999: entered into force on 28 June 2004;
8. the Beijing Convention on the suppression of unlawful acts relating to international civil aviation: entered into force on 1 July 2018; and
9. other conventions signed by France but not ratified, such as the Rome Convention of 7 October 1952.

In February 2021, France ratified the Montreal Protocol of 4 April 2014, which complements the Tokyo Convention to provide airlines with the means to more effectively respond to disruptive passenger behaviour.

Once they have been duly ratified and published, the conventions are directly applicable in France and are directly referred to in the Civil Aviation Code and Transport Code. However, references to international conventions still leave room for national law. This is particularly

the case with the concepts of inexcusable fault and fraud, which are contemplated by international conventions and then clarified and defined in the Transport Code.^[15]

Internal and other non-convention carriage

Internal carriage is subject in priority to the national rules of French law, which refer to the liability rules of the Montreal International Convention.

The legislative provisions of French law relating to the contract of carriage of persons and goods are contained in the Transport Code.^[16] They apply to both onerous and gratuitous carriage, disregarding the status of the carrier. Their application requires the existence of a real contract of carriage.

Regarding onerous carriage of passengers, the Transport Code refers to the liability regime provided for by Regulation (EC) No. 889/2002 and the Montreal Convention.^[17]

A special case is reserved for transport carried out for free by a non-professional air transport operator. By derogation from the principle of the Montreal Convention, the person who assumes the status of carrier may only be liable if it is established that the damage is due to a fault on their part.^[18]

Similarly, with respect to the carriage of goods, the Transport Code refers (without distinction as to the status of the carrier) to the liability regime set out in the Montreal Convention.^[19]

General aviation regulation

The Civil Aviation Code and the Transport Code both regulate general aviation. The Civil Code may also apply when the Transport Code refers to it.

Passenger rights

France applies several EU regulations protecting passengers before, during and after their flight.

EU law and French law guarantee the possibility of comparing services and prices before travelling.^[20] Regulation (EU) No. 261/2004 protects air passengers in the event of denied boarding, cancellation or flight delay. Air carriers must offer assistance and compensate passengers except in the event of extraordinary circumstances. The classification of extraordinary circumstances depends on each jurisdiction; in practice, French courts are very protective of passengers and do not recognise the existence of extraordinary circumstances very often. Regulation (EC) No. 1107/2006 also protects the rights of disabled or reduced mobility air passengers when travelling by air.

Regulation (EC) No. 2111/2005 adds the obligation for the air carriage contractor to inform the passenger of the identity of the operating air carrier, whatever the means used to make the reservation. The Transport Code is stricter, as any person marketing a ticket on flights of a banned operating air carrier must clearly inform the passenger of the ban.^[21]

According to Law No. 78-17 of 6 January 1978 on Data Processing, Data Files and Liberties, as amended by the General Data Protection Regulation,^[22] air carriers must process

personal customer data in a loyal, fair and adequate manner.^[23] It shall be kept in a form that permits identification of data subjects for no longer than is necessary for the purposes for which they are collected and processed.^[24]

Other legislation

According to Article L6361-12 of the Transport Code, the Airport Pollution Control Authority can impose administrative fines on a person exercising a public air transport activity or for whose benefit an air transport activity is carried out if they do not comply with the measures taken by the administrative authority at an aerodrome regarding:

1. permanent or temporary restrictions on the use of certain types of aircraft on the basis of their polluting air emissions, noise classification, seating capacity or maximum certified takeoff weight;
2. permanent or temporary restrictions on the exercise of certain activities because of the environmental nuisance they cause;
3. special takeoff or landing procedures to limit the environmental nuisance caused by these phases of flight;
4. rules relating to engine tests; and
5. maximum noise or air pollutant emission values not to be exceeded.

Licensing of operations

Licensed activities

To be put in circulation, an aircraft must be registered. To be registered in France, the aircraft must comply with the requirements laid down at Article L6111-3 of the Transport Code.

EU air carriers also need to meet requirements of technical and economic reliability and credibility. Compliance with these requirements is evidenced by the holding of an air operator's certificate and an operating licence.^[25]

The certificate is a document issued by the minister for civil aviation attesting that the air carrier concerned has the professional ability and organisation required to operate aircraft safely.^[26]

The operating licence is a document authorising the undertaking to carry out carriage by air of passengers, mail or cargo for remuneration as specified in, and within the limits defined by, the document. In France, the minister for transport, under advice from the Higher Council of Civil Aviation, is responsible for decisions regarding the granting of public air transport licences. Air carriers must be treated equally, irrespective of the Member State in which they are licensed. In this respect, Regulation (EC) No. 1008/2008 specifies the conditions of financial and technical capacity that must be met.

Ownership rules

According to Article 4 of Regulation No. 1008/2008, one of the conditions for an undertaking to be granted an operating licence is that Member States or nationals of Member States, or both, own more than 50 per cent of the undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings.

Under French law, Article L6411-2 et seq. of the Transport Code and Article L360-2 of the Civil Aviation Code specify the requirements regarding the 50 per cent rule to be met by publicly traded companies owning an operating licence.

Foreign carriers

According to Article 15 of Regulation No. 1008/2008, France cannot subject the operation of intra-Community air services by a Community air carrier to any permit or authorisation; neither can it require Community air carriers to provide any documents or information that they have already supplied to the competent licensing authority.

However, non-Community aircraft may only fly over the French territory if their airworthiness certificate has been approved by the DGCA. The application form – called DGCA LP6 – must be sent to the DGCA Airworthiness Division. The applicant must specify the purpose of the flights in France and the period during which the flights are to be operated. They must provide a copy of their foreign airworthiness document (and associated documents), which must be valid for the period at stake.^[27]

Safety

Accident reporting

Accident reporting is regulated by Article L6222-1 et seq. of the Transport Code^[28]. France also applies Regulation (EU) No. 996/2010 on the investigation and prevention of accidents and incidents in civil aviation.

Any operator who has its registered office or principal place of business in France and who operates an aircraft or, failing this, any captain of such an aircraft, must inform the Bureau of Enquiry and Analysis for Civil Aviation Safety (BEA, the French safety investigation authority) without delay of any civil aviation accident or incident that has occurred to this aircraft.^[29]

The BEA must notify without delay the Commission, EASA, the ICAO, the Member States and third countries concerned in accordance with the international standards and recommended practices of the occurrence of all accidents and serious incidents of which it has been notified.^[30]

Airworthiness

Regulation (EU) No. 1321/2014 (amended by Regulation No. 2022/410 of 10 March 2022)^[31] establishes common technical requirements and administrative procedures for ensuring the continuing airworthiness of aircraft, such as the aircraft maintenance programme and the aircraft continuing airworthiness records system. It also specifies that the operator – in the case of commercial air transport – must use an aircraft technical log system containing the current maintenance statement giving the aircraft maintenance status.

Finally, Regulation (EU) No. 1321/2014 states conditions to be met by the persons or organisations involved in continuing airworthiness management.

More recently, Regulation (EU) No. 2025/111 of 23 January 2025 has amended the requirements for airworthiness of hybrid and electric-propulsion aircraft and other non-conventional aircraft.

Maintenance

Regulation (EU) No. 1321/2014 also specifies the maintenance standards to be followed regarding maintenance data, the performance of maintenance and aircraft defects. It also states the requirements to be met by an organisation to qualify for the issue or continuation of an approval for the maintenance of an aircraft.

Training

Regulation (EU) No. 1178/2011 of 3 November 2011 lays down detailed rules for:

1. different ratings for pilots' licences, the conditions for issuing, maintaining, amending, limiting, suspending or revoking licences, and the privileges and responsibilities of the holders of licences;
2. the conditions for issuing, maintaining, amending, limiting, suspending or revoking cabin crew attestations, as well as the privileges and responsibilities of the holders of cabin crew attestations; and
3. the conditions for issuing, maintaining, amending, limiting, suspending or revoking certificates of pilot training organisations and of aero-medical centres involved in the qualification and aero-medical assessment of civil aviation aircrew.

This was implemented in France by an Order of 5 April 2012 and modified by Orders of 2 April 2015 and 12 April 2016.

Insurance

Air carriers and aircraft operators must prove they comply with insurance requirements by providing the DGCA with an insurance certificate or other evidence of valid insurance.

Insurance obligations are defined in Article 50 of the Montreal Convention and detailed in EU Regulation No. 785/2004 on insurance requirements for air carriers and operators^[32] as follows:

1. For liability in respect of passengers, the minimum insurance cover is 250,000 special drawing rights (SDRs) per passenger. However, in respect of non-commercial operations by aircraft with a maximum takeoff weight (MTOM) of 2,700 kg or less, EU countries may set a lower level of minimum insurance cover but not below 100,000 SDRs per passenger.
2. For liability in respect of baggage, the minimum insurance cover must be 1,288 SDRs per passenger in commercial operations.
3. For liability in respect of cargo, the minimum insurance cover must be 22 SDRs per kg in commercial operations.

For liability in respect of third parties (i.e., any legal and natural person, excluding passengers and crew) the minimum insurance cover per accident and per aircraft depends on the MTOM of the aircraft. It can vary between 750,000 SDRs and 700 million SDRs.^[33]

With respect to overflights of France by non-EU air carriers or aircraft registered outside the European Union that do not involve a landing on or takeoff from any Member State, France may, in accordance with international law, request evidence of compliance with the insurance requirements of this Regulation, for example by carrying out random checks.^[34]

Competition

Relevant competition provisions

Competition in the aviation sector is regulated by the TFEU and the French Commercial Code.

The Commercial Code forbids concerted actions or agreements when their purpose or effect is or may be to prevent, restrict or distort competition in a market.^[35] The abusive use, by an undertaking or group of undertakings, of a dominant position on the domestic market or a substantial part is also prohibited.^[36] Offers of prices or practices involving selling prices to consumers that are unreasonably low are prohibited where such offers or practices have as their object or effect the elimination from a market of an undertaking.^[37]

Moreover, when necessary, the TFEU provisions are applied and enforced in France by the French Competition Authority. The TFEU applies to the aviation sector when this activity alters trade between Member States.

Regulatory regime for anticompetitive behaviour

In cases of anticompetitive behaviour, the Competition Authority may examine whether the practices violate competition provisions or may be justified (for example, if they ensure economic progress).^[38]

The Competition Authority may order the parties to put an end to anticompetitive practices within a specified period or impose special conditions. It may also impose a financial

penalty, applicable either immediately or in the event of failure to comply with the injunctions it has handed down.^[39]

Financial penalties are proportionate to the seriousness of the offences at stake, the extent of the damage caused to the economy, the situation of the body or undertaking penalised and any repetition of the prohibited practices. The maximum amount of the penalty for a legal entity is 10 per cent of its worldwide turnover.^[40]

Cooperation agreement between operators

Cooperation agreements are not – per se – prohibited under French law or European law as they can, under certain circumstances, contribute to research and development and therefore improve competition. Cooperation agreements are, however, assessed according to the European Commission's guidelines regarding horizontal cooperation.

Criminal liability

According to Article L420-6 of the Commercial Code, a four-year prison sentence and a fine of €75,000 may be imposed on any natural person who fraudulently takes a personal and decisive part in the design, organisation or implementation of anticompetitive practices.

Moreover, if, during its investigation, the Competition Authority finds that such practices should be criminally investigated, it can send the file to the public prosecutor. This transmission interrupts the statute of limitations on public action.

Wrongful death

In France, the general principle is full compensation of all types of damage suffered in relation to an accident. Both moral and material damage are compensable.

In the event of the death of a passenger, their relatives can seek compensation for the loss of income due to the death of the victim. Compensation is then calculated based on the income and age of the deceased. It is also possible to seek compensation for the recovery of funeral expenses.

Family members who have suffered the loss of the victim may also be compensated for their moral damage. The amounts awarded in this respect vary according to whether the victim lived with the relative and their degree of kinship. The amounts awarded also vary from one court to another.

The 'loss of opportunity to have one's life extended in accordance with the life expectancy of a person of his or her age' may also be compensated under specific conditions, with this right being transmitted to the victim's heirs.

The prejudice of death anxiety may also be compensated. The purpose is to compensate the anguish of imminent death suffered by the victim who, between the occurrence of the accident and their death, remained sufficiently conscious to have contemplated their own end.^[41]

It should also be mentioned that claims against air carriers for damage pursuant to the Warsaw and Montreal Conventions must be brought before the civil courts and cannot be made in the context of criminal proceedings.

Establishing liability and settlement

Procedure

In France, there is no specific jurisdiction, timeline or mechanism to settle air travel claims. In the event of a death or bodily injury, the Montreal and Warsaw Conventions as well as Regulation (EC) No. 889/2002 of 13 May 2002 apply. In accordance with these texts, the time limitation to bring a claim against an air carrier is two years from the date of arrival of the aircraft, and actions for compensation can be brought against any liable party.

Carriers' liability towards passengers and third parties

The Montreal Convention regulates the operator's liability towards passengers, in accordance with Article 1 of Regulation (EC) No. 889/2002 of 13 May 2002. The carrier is liable for the damage sustained in the event of death or bodily injury of a passenger as long as the accident took place on board the aircraft or in the course of embarking or disembarking operations.^[42]

According to Article 21 of the Montreal Convention on compensation in the case of death or injury of passengers, the carrier cannot exclude or limit its liability for damages not exceeding 151,880 SDRs for each passenger (as amended on 28 December 2024).^[43] However, for damages arising that exceed 151,880 SDRs, the carrier can exclude its liability but only if it proves that the damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or was solely due to the negligence or other wrongful act or omission of a third party.

The carrier's liability towards passengers in relation to delay, baggage and cargo is limited by Article 22 of the Montreal Convention to:

1. 26 SDRs per kilogram for the carriage of cargo in the case of destruction, loss, damage or delay unless a special declaration of interest was made by the consignor;
2. 1,519 SDRs per passenger for the carriage of baggage in cases of destruction, loss, damage or delay of the baggage unless a special declaration of interest was made by the passenger; and
3. 6,303 SDRs per passenger for damage caused by delay in the carriage of persons.-^[44]

Pursuant to Article L6131-2 of the Transport Code, the operator of an aircraft is systematically liable for ground damage caused by an aircraft or objects that come off it towards a third party. However, damage caused to persons on the ground bound by contract to the operator (i.e., passengers) falls outside the scope of Article L6131-2. Article L6131-1 of the Transport Code adds that in the case of damage caused by one aircraft

to another aircraft, the liability of the pilot and the aircraft operator is governed by the provisions set out in the Civil Code.

Product liability

Product liability is governed by Article 1245 et seq. of the Civil Code. In accordance with these provisions, the manufacturer is liable for damage caused by a defect in their product, whether or not they are bound by a contract with the victim. A manufacturer, when acting as a professional, is deemed to be the manufacturer of a finished product, a raw material or a component part.

If the manufacturer cannot be identified, the seller, the lessor or any other professional supplier shall be liable for the lack of safety of the product under the same conditions as the manufacturer, unless it designates its own supplier or the manufacturer within three months of the date on which the victim's request was notified to it.^[45]

The manufacturer may be liable for the defect even though the product has been manufactured in accordance with existing standards or has been the subject of an administrative authorisation.^[46]

Compensation

In France, the principle is one of full compensation of any damage (i.e., the victim must be compensated for their 'whole but sole' loss). Punitive damages are forbidden, as they would lead to the enrichment of the victim, which is contrary to the principle of full compensation. In practice, French courts admit three main types of damage: property damage; bodily injury, which includes economic loss; and moral damage. To be admitted, the damage must have a causal link with an accident.

In the event of the death or injury of a passenger, the air carrier must make an advance payment to cover immediate economic needs within 15 days of the identification of the person entitled to compensation. For Community carriers, a European regulation has set this advance payment, in the event of death, at an amount not less than 16,000 SDRs per passenger.^[47] This advance payment is the only obligation imposed on air carriers; consequently, victims and their beneficiaries must take legal action to be fully compensated.

An Inter-ministerial Instruction of 26 April 2017 introduced the emergency plan in the event of a civil aviation accident required by Article 21 of European Regulation No. 996/2010 of 20 October 2010 and sets the plan regarding assistance to victims and their families.

Drones

Apart from certain exceptions, a permit issued by the DGCA is required to fly a drone. When the drone weighs more than 800 g, the drone pilot must also follow an online training course on the DGCA website and pass an evaluation test. In the event of piloting the drone without a certificate of success, the pilot may have to pay a fine of €450. In addition, a

drone weighing more than 800 g must be registered with the DGCA, otherwise the pilot may have to pay a fine of €750.^[48]

Moreover, from 29 June 2020, a drone weighing more than 800 g will have to issue an electronic signal. If a drone was registered before 29 June 2020, the owner had until 29 December 2020 to bring it into compliance.^[49]

Finally, when piloting a drone, the following rules must be applied:

1. do not fly over people;
2. respect the maximum flying heights (150 metres in general);
3. never lose sight of the camera and do not use it at night;
4. do not fly the drone over public areas in built-up areas;
5. do not fly the drone near airfields;
6. do not fly over sensitive or protected sites, such as nuclear power plants, military land and nature reserves; and
7. respect the privacy of others by not broadcasting pictures without the consent of the persons concerned, and by not using them for commercial purposes.^[50]

In cases of violation of safety rules and overflight bans, a pilot risks one to six months of imprisonment and a fine of €15,000 to €45,000, as well as having their drone confiscated.^[51]

Voluntary reporting

In accordance with the concept of a 'just culture', several provisions have been enacted to encourage the voluntary reporting of incidents to ensure and improve safety.

Among others, France applies Regulation (EU) No. 376/2014^[52] – as implemented by Commission Regulation (EU) No. 2015/1018 – which regulates the reporting, analysis and follow-up of occurrences in civil aviation and aims to protect the reporter and the persons mentioned in occurrence reports, in particular by anonymising these reports. Accidents and serious incidents occurring in France must be reported to the BEA, which then notifies the Commission, the EASA, the ICAO and the Member States and third countries concerned.

Moreover, according to Articles L6223-1 and L6223-2 of the Transport Code, a person who, in the exercise of an activity related to civil aviation, becomes aware of an event is required to report it without delay to the minister responsible for civil aviation or, where appropriate, to their employer. An event is any type of operational interruption, anomaly or failure, or other unusual circumstance, which has had, or is likely to have had, an impact on air safety and which has not given rise to an accident or serious aircraft incident. No administrative, disciplinary or professional sanction may be imposed on the person who reported an event, whether or not they were involved in the event, unless they are themselves guilty of a deliberate or repeated failure to comply with safety rules.

Outlook and conclusions

The French aviation sector, like many others, is facing numerous challenges and uncertainties in the current context.

One of the most pressing challenges is the need to reduce the industry's carbon footprint. The French government has recently taken measures to reduce domestic air travel, as part of its efforts to reduce greenhouse gas emissions. Law No. 2021-1104 tackling climate change has been enforced by decree following discussions between the French government and the European Commission, providing for the termination of most internal flights for journeys that can be made in less than two-and-a-half hours by direct train connection. This applies without changing trains between the two stations, with several daily frequencies and satisfactory schedules, and allowing for more than eight hours on-site per day. The rule also applies to connecting flights to avoid creating a distortion of competition between airlines.^[53]

In addition to these domestic measures, the aviation sector in France is also affected by new European regulations, including the revision of the Emissions Trading System (ETS) to include aviation.

In this respect, two years after the European Commission's proposal, the revision of the ETS for aviation has been finalised with the entry into force of Directive (EU) 2023/958 on 5 June 2023. Member States were mandated to incorporate the directive into national law by 31 December 2023; however, France only transposed it on 14 June 2024.^[54] The Directive aims at gradually phasing out free ETS allowances and introducing reporting obligations for non-carbon dioxide aviation emissions. Despite concerns about operational challenges, the revision intends to support the adoption of sustainable aviation fuels and aligns with ongoing efforts to reduce aviation emissions, with potential future adjustments pending an assessment by the European Commission.

These measures are likely to have an impact on the French aviation sector, which will need to adapt to the new regulatory environment.

Moreover, Regulation (EU) No. 2023/2405 on sustainable aviation fuels (the ReFuelEU Aviation Regulation) was adopted in September 2023, establishing binding minimum shares of sustainable aviation fuel (SAF) that must be supplied at EU airports. Starting 1 January 2025, at least 2 per cent of jet fuel made available at each Union airport must be SAF, with this proportion increasing to 6 per cent in 2030, 20 per cent in 2035, and progressively up to 70 per cent by 2050.

Finally, regarding passengers' rights, airlines have been pushing for a reform of the European Union Regulation 261/2004 to reduce the rights of air passengers in the event of a delay, cancellation or denied boarding. They argue that the Regulation is too strict and leads to excessive compensation payouts, negatively impacting the financial performance of airlines. Discussions are ongoing with key stakeholders and, in the future, said Regulation could be amended.

Endnotes

- 1 Council Regulations (EEC) Nos. 2407/92, 2408/92 and 2409/92, now replaced by Regulation (EC) No. 1008/2008 of the European Parliament and of the Council. [^ Back to section](#)
- 2 Article L211-3 of the Civil Aviation Code. [^ Back to section](#)
- 3 Article L221-1 of the Civil Aviation Code. [^ Back to section](#)
- 4 Article 8 of the Council Regulation (EEC) No. 95/93 of 18 January 1993. [^ Back to section](#)
- 5 www.europarl.europa.eu/factsheets/fr/sheet/131/transports-aeriens-regles-du-marche. [^ Back to section](#)
- 6 www.village-justice.com/articles/attribution-des-creneaux-horaires-dans-les-aeroports-delicate-gestion-rarete,32941.html. [^ Back to section](#)
- 7 Regulation (EU) 2021/250 of the European Parliament and of the Council of 16 February 2021 amending Council Regulation (EEC) No. 95/93 as regards temporary relief from the slot utilisation rules at Union airports due to the covid-19 crisis. [^ Back to section](#)
- 8 Article L6122-1 of the Transport Code. [^ Back to section](#)
- 9 Article L6122-8 of the Transport Code. [^ Back to section](#)
- 10 Previously article R.330-2-1 of the Civil Aviation Code that was repealed by decree n° 2023-10008 [^ Back to section](#)
- 11 www.ecologique-solidaire.gouv.fr/direction-generale-laviation-civile-dgac. [^ Back to section](#)
- 12 Article L6327-1 of the Transport Code. [^ Back to section](#)
- 13 Article L6327-2 of the Transport Code. [^ Back to section](#)
- 14 www.ecologie.gouv.fr/statistiques-du-traffic-aerien. [^ Back to section](#)
- 15 Articles L6422-3 and L6422-4 of the Transport Code. [^ Back to section](#)
- 16 Articles L6421-1 to L6422-5 of the Transport Code. [^ Back to section](#)
- 17 Article L6421-3 and L6421-4 of the Transport Code. [^ Back to section](#)
- 18 Article L6421-4, Paragraph 2 of the Transport Code. [^ Back to section](#)
- 19 Article L6422-2 of the Transport Code. [^ Back to section](#)

- 20** Respectively, Article 23 of Regulation (EC) No. 1008/2008, and the Order of 10 April 2017 on price information for the provision of certain public passenger transport services. [^ Back to section](#)
- 21** Article L6421-2-1 of the Transport Code. [^ Back to section](#)
- 22** Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation). [^ Back to section](#)
- 23** Article 6 of Law No. 78-17 of 6 January 1978 on Data Processing, Data Files and Liberties. [^ Back to section](#)
- 24** Article 6 of Law No. 78-17 of 6 January 1978 on Data Processing, Data Files and Liberties. [^ Back to section](#)
- 25** Article L6412-2 of the Transport Code, as amended. [^ Back to section](#)
- 26** Regulation (EC) No. 1008/2008 of 24 September 2008. [^ Back to section](#)
- 27** www.ecologique-solidaire.gouv.fr/aeronefs-etranagers. [^ Back to section](#)
- 28** Previously article R.722-2 of the Civil Aviation Code that was repealed by decree n° 2023-10008. [^ Back to section](#)
- 29** R.6222-6 of the Transport Code, previously article R.722-3 of the Civil Aviation Code that was repealed by decree n°2023 - 10008. [^ Back to section](#)
- 30** Article 9 of Regulation (EU) No. 996/2010. [^ Back to section](#)
- 31** As amended by Commission Implementing Regulation (EU) 2020/1159 of 5 August 2020 and Regulation (EU) No. 2022/410 of 10 March 2022 amending Regulations (EU) No. 1321/2014 and (EU) No. 2015/640 as regards the introduction of new additional airworthiness requirements. [^ Back to section](#)
- 32** As amended by Commission Delegated Regulation (EU) 2020/1118 of 27 April 2020 amending Regulation (EC) No. 785/2004 of the European Parliament and of the Council on insurance requirements for air carriers and aircraft operators. [^ Back to section](#)
- 33** Article 7 of Regulation (EC) No. 785/2004 of the European Parliament and of the Council of 21 April 2004 on Insurance Requirements For Air Carriers And Aircraft Operators. [^ Back to section](#)

- 34 Article 8 of Regulation (EC) No. 785/2004 of the European Parliament and of the Council of 21 April 2004 on Insurance Requirements For Air Carriers And Aircraft Operators. [^ Back to section](#)
- 35 Article L420-1 of the Commercial Code. [^ Back to section](#)
- 36 Article L420-2 of the Commercial Code. [^ Back to section](#)
- 37 Article L420-5 of the Commercial Code. [^ Back to section](#)
- 38 Article L420-4 of the Commercial Code. [^ Back to section](#)
- 39 Article L464-2 of the Commercial Code. [^ Back to section](#)
- 40 Article L464-2 of the Commercial Code. [^ Back to section](#)
- 41 Cass Crim, 23 October 2012, No. 11-83.770; CA Toulouse, 28 January 2021, No. 19/01394. [^ Back to section](#)
- 42 Article 17 of the Montreal Convention. [^ Back to section](#)
- 43 Revised limit as of 28 December 2024. [^ Back to section](#)
- 44 Revised limits as of 28 December 2024. [^ Back to section](#)
- 45 Article 1245-6 of the Civil Code. [^ Back to section](#)
- 46 Article 1245-9 of the Civil Code. [^ Back to section](#)
- 47 Regulation (EC) No. 889/2002 of 13 May 2002 amending Council Regulation (EC) No. 2027/97 on air carrier liability in the event of accidents. [^ Back to section](#)
- 48 Article L6111-1 of the Transport Code as amended on 30 March 2022; Article L6214-1 et seq. of the Transport Code as amended on 30 March 2022. [^ Back to section](#)
- 49 Decree of 30 October 2019 and Order of 27 December 2019. [^ Back to section](#)
- 50 Decree of 19 April 2019; Order of 3 December 2020. [^ Back to section](#)
- 51 Article L6232-12 of the Transport Code as amended on 30 March 2022. [^ Back to section](#)
- 52 As amended by Regulation (EU) 2018/1139 of 4 July 2018. [^ Back to section](#)
- 53 www.service-public.fr/particuliers/actualites/A16193. [^ Back to section](#)
- 54 See for instance Environment Code Articles L. 229-18 and seq. [^ Back to section](#)



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Introduction

In Germany, 37 airports offer scheduled passenger services. Frankfurt is the largest German airport in terms of both the number of flights (about 430,436 in 2023) and the number of passengers (about 59.3 million in 2023). In terms of the number of passengers, Frankfurt Airport is the sixth-largest airport in Europe, after Istanbul Airport, London Heathrow, Paris Charles de Gaulle, Amsterdam Schiphol and Madrid Barajas. The second-largest German airport is Munich (about 302,153 flights and more than 37 million passengers in 2023) and the third is Berlin-Brandenburg (about 176,649 flights and 23.1 million passengers in 2023).^[1]

The airports Berlin (Schönefeld, Tegel and Tempelhof), Bremen, Dresden, Düsseldorf, Erfurt, Frankfurt/Main, Hamburg, Hannover, Cologne/Bonn, Leipzig/Halle, Munich, Münster/Osnabrück, Nuremberg, Saarbrücken and Stuttgart are coordinated airports as per Regulation (EC) No. 95/93.^[2] The slots are allocated by Airport Coordination Germany (FHKD), which is an independent non-profit organisation financed by German airlines and airports.

The Federal Aviation Office (LBA) is the German civil aviation authority and the competent authority for registering aircraft except for sports aircraft such as ultralight gliders and paragliders. At the end of 2021, in Germany, 716 aircraft with a maximum takeoff weight (MTOW) of over 20 tons were registered with the LBA, 35 aircraft with an MTOW of 14 to 20 tons and 236 aircraft with an MTOW between 5.7 and 14 tons. As to single-engine aircraft, 6,605 were registered with an MTOW below 2 tons and 217 with an MTOW between 2 and 5.7 tons. There were 223 multi-engine aircraft with an MTOW of under 2 tons registered and 397 with an MTOW between 2 and 5.7 tons.^[3]

On 31 December 2023, 103 air carriers had an operating licence in Germany; in 2022 there were 104.^[4] On 31 December 2023, 1,639 foreign air carriers had traffic rights to and from Germany; in 2022, there were 1,594.^[5] In 2023, 1,345 ramp checks were undertaken on foreign aircraft by the LBA, compared to 1,394 in 2022.^[6]

Germany has concluded agreements pursuant to Article 83 *bis* of the Convention on International Civil Aviation with Austria, Denmark, Italy, Spain and Sweden to facilitate the operation of German-registered aircraft within foreign air carriers and the operation of foreign-registered aircraft within German air carriers.^[7]

As to passenger rights, in 2023 the LBA received 3,907 complaints from passengers in respect of Regulation (EC) No. 261/2004 (2,846 in 2022), of which 1,879 (48.1 per cent) were because of cancellations, 1,717 (43.9 per cent) because of delays, 248 (6.3 per cent) because of denied boarding and 63 (1.6 per cent) because of downgrading.^[8]

Of the airlines against which complaints were addressed, 1,956 (50.1 per cent) complaints concerned German air carriers, 1,379 (35.3 per cent) concerned European air carriers and 572 (14.6 per cent) concerned air carriers from third countries.^[9]

The following sections shall provide a practice-oriented overview of the main fields in the German aviation sector along with the developments therein in the past year. Germany is a Member State of the European Union, thus EU regulations apply directly and national law

is in accordance with EU directives. Therefore, this chapter will only address aspects of national German law and practice.

We hope to provide a business-focused insight into German aviation law and its recent developments. The overview shall serve as a first orientation that – if necessary – can be used as a basis for a more in-depth examination of the subjects addressed.

Year in review

Increase of German air traffic tax

As of 1 May 2024, the German air traffic tax increased by 19 per cent to between €15.53 and €70.83 per passenger, depending on the route. This tax must be paid by the respective airline per passenger that departs from a German airport. This increase concretely means that the air traffic tax for a flight within Germany or to a Member State of the European Union that amounted to €12.73 per passenger per trip in 2023 increased to €15.53 as from May 2024. For flights with a distance of more than 6,000km, the tax increased from €58.06 to €70.83 per passenger.

The significantly increased costs for the airlines have led to a decrease of flights departing from Germany. Various airlines, especially low-cost airlines, have cancelled flights and routes because of the high costs burden at German airports, and further cancellations may materialise.

The tax rise could also lead to more expensive tickets as airlines may increase the ticket price to pass on the higher taxes to the passengers.

Legal framework for liability

International carriage

Germany is a party to the main following multilateral agreements relating to international carriage.^[10]

1. Convention on International Civil Aviation (Chicago) – 8 June 1956;
2. International Air Services Transit Agreement (Chicago) – 8 June 1956;
3. Convention on the international recognition of rights in aircraft (Geneva) – 5 October 1959;
4. Convention for the unification of certain rules relating to international carriage by air (Warsaw) – 29 December 1933;
5. Protocol to amend the Warsaw Convention (The Hague) – 1 August 1963;
6. Convention, supplementary to the Warsaw Convention, for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier (Guadalajara) – 31 May 1964;

7. Convention for the unification of certain rules relating to international carriage by air (Montreal) – 28 June 2004; and
8. Convention on offences and certain other acts committed on board aircraft (Tokyo) – 16 March 1970.

Internal and other non-convention carriage

In Germany, liability in respect of non-convention carriage is governed by the German Air Traffic Act (LuftVG). This law is also applicable for damage on the ground (i.e., damage suffered by third parties caused by the operation of an aircraft).

Under Article 45 paragraph 1 of the LuftVG, the air carrier is strictly liable in the case of death or injury of a passenger caused by an accident onboard the aircraft, respectively during boarding or disembarking. Under Article 45 paragraph 2, the carrier's liability is limited to 128,821 special drawing rights (SDR) per passenger unless the damage was caused by a negligent act or omission of the carrier or another third person.

Up to 128,821 SDR, the air carrier cannot exclude itself unless there was contributory negligence on the part of the passenger.

If domestic carriage (within Germany) is carried out by an air carrier of the European Union, it is not the LuftVG but Regulation (EC) No. 889/2002 that applies.

The LuftVG also rules liability in the case of passenger delay, baggage delay and damage to baggage. The airline is not liable in the case of delayed transportation if all measures were taken to avoid the damage or if it was impossible to take such measures. Further, in the case of delay, liability is limited to 5,346 SDR per passenger.

In the case of damage to or loss of checked baggage, the carrier is strictly liable. Liability is limited to 1,288 SDR per passenger. In the case of damage to hand luggage, the carrier is only liable if the damage was caused by the carrier's negligence.

Liability in respect of non-convention carriage of cargo is ruled in the German Commercial Code (HGB). Under Article 431 paragraph 1 HGB, the carrier's liability is limited to 8.33 SDR per kilogram. However, this liability can be unlimited in the case that the damage was caused by wilful misconduct with the knowledge that damage would probably result.

General aviation regulation

The LuftVG also governs liability in the operation of helicopters and microlights during carriage within Germany.

Furthermore, the LuftVG also applies to international carriage performed free of charge by a non-EU carrier.

Passenger rights

In Germany, passenger rights are mainly governed by EU regulations, especially Regulation (EC) No. 261/2004 and the Montreal Convention.

German legal provisions dealing with passenger rights

The German legal provisions dealing with passenger rights can be found in Article 44 et seq. of the LuftVG. Article 44 clearly states that the European and international provisions on passenger rights prevail over the German provisions as far as they are applicable.

In the case of a delay to the passenger or their baggage, according to Articles 46 and 47 LuftVG, the passenger is entitled to compensation for the loss they had because of the delay unless the air carrier proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures. The limits of liability are 5,346 SDR in the case of the delay of a passenger and 1,288 SDR in the case of baggage delay, unless the damage was caused intentionally or the carrier or its agents were grossly negligent.

According to Article 48a LuftVG, in the case of carriage to be performed by various successive carriers, only the carrier that performed the carriage during which the delay occurred is liable for damages, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey. In the case of delayed baggage, the first, the last and the operating carrier are liable for damages. These carriers are jointly and severally liable to the passenger.

The limitation period under Article 49a LuftVG corresponds with Article 35 of the Montreal Convention and is two years upon arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

German enforcement body concerning Regulation (EC) No. 261/2004

The LBA is the German enforcement body of Regulation (EC) No. 261/2004.

Upon passenger complaints or their own investigations concerning a potential breach of Regulation (EC) No. 261/2004, the LBA commences a regulatory offence procedure against the air carrier, sends them a letter in which the alleged breach is put forward and requests the air carrier's comments. If the air carrier cannot prove extraordinary circumstances or any other justification for the delay or cancellation, or if the air carrier does not pay compensation to the passenger upon receipt of the LBA's letter, the LBA will impose a fine on the air carrier of up to €25,000.

Despite the *Sturgeon* decision of the European Court of Justice (ECJ) of 19 November 2009 (C-402/07 and C-432/07), the LBA did not pursue air carriers in respect of non-payment of compensation of delayed flights, arguing that Regulation (EC) No. 261/2004 does not provide a legal basis for compensation in case of delays to the effect that non-payment of compensation in case of delays is not a breach of the Regulation and thus not a regulatory offence that incurs a fine.

However, following the ECJ decision of 23 October 2012 (cases C-581/10 and C-629/10), the LBA decided in March 2013 that it would now also follow the above-mentioned ECJ decisions and pursue air carriers if compensation was not paid in the case of delays.

Conciliation concerning passenger rights

On 1 November 2013, a new conciliation instrument came into force in Germany to avoid court proceedings in the case of delays, cancellations and denied boarding as well as baggage claims. A framework for voluntary conciliation has been created that passengers can make use of if an airline does not satisfy their claims within two months. Claims of up to €5,000 will be dealt with by the conciliation institutions. The conciliation proceedings are free of charge for the passenger.

Other legislation

As under European law, under German law to avoid dominant market positions the cartel authority can control company growth in respect of the merging of companies.

The most important pieces of legislation in this regard are the German Act against Restrictions on Competition and the German Act against Unfair Practices.

German cartel law fully applies to aviation-related companies (e.g., airlines).

A violation of the law against unfair competition can result in the obligation to pay compensation to competitors and also in an administrative fine.

Product liability is regulated by the German Product Liability Act as well as the German Civil Code.

Licensing of operations

Licensed activities

As Germany is a Member State of the EU, Regulation (EC) No. 1008/2008 applies and licensed activities are governed by this Regulation.

Under Regulation (EC) No. 1008/2008, air carriers from EEA Member States are entitled to operate flights within the Community. A special application or notification is not required. This also applies to air carriers from Switzerland.

However, Regulation (EC) No. 1008/2008 does not apply to the following undertakings:

1. foreign carriers based outside the EEA; and
2. carriers based in Germany that operate round-trips or carry passengers or cargo by hot-air balloon.

See 'Foreign carriers', below, for the requirements foreign carriers must fulfil to obtain permission to operate in Germany.

Ownership rules

In Germany, ownership rules are governed by Regulation (EC) No. 1008/2008.

Foreign carriers

Pursuant to Article 15 of Regulation (EC) No. 1008/2008, air carriers from EEA Member States and from Switzerland are authorised to exercise the right to operate on routes within the Community and are no longer required to submit a separate application.

Scheduled air traffic

In respect of scheduled air traffic, air carriers from non-EEA Member States have to obtain an operating licence under Article 21a LuftVG from the LBA prior to commencing scheduled air services from and to Germany. Foreign carriers must provide the following when applying for permission to operate in Germany:

1. articles of association;
2. excerpt from the commercial register;
3. latest annual report or details on the board of management and the composition of the capital;
4. flight schedule;
5. flight schedule – code share flights only;
6. a complete list of the fleet with details of the capacity of the individual aircraft including:
 - if necessary, a leasing contract;
 - certificate of registration;
 - certificate of airworthiness; and
 - noise certificate;
7. an operating permit questionnaire including proof of maintenance of the aircraft in compliance with the ICAO;
8. third-party legal liability insurance;
9. liability insurance covering damage to persons, baggage, cargo and damage caused by delay;
10. declaration of the authorised appointed recipient;
11. air operator certificate with a validity of at least one year;
12. designation of the air carrier by the government of the state of registry for scheduled air services between the state of registry and Germany or vice versa;
13. estimate of the traffic volume to be expected on the planned route for the first year of operation;
14. aviation security plan; and
15. in case of carrying cargo or mail: ACC3-designation according to Regulation (EC) No. 300/2008 for third-country airports that do not have equivalent security standards.^[11]

Non-scheduled air traffic

An entry permission must be requested for commercial flights of non-EEA air carriers to and from Germany.

The permission for entry will only be granted if the state registry of the air carrier submitting the application grants entry to German air carriers in the same way (reciprocity clause).

The following documents must be provided (in German or English) together with the application form:

1. charter agreement;
2. operating licence including air operator certificate with operation specifications (aircraft listing);
3. third-party legal liability insurance;
4. liability insurance covering damage to persons, baggage, cargo and damage caused by delay;
5. certificate of registration;
6. certificate of airworthiness;
7. noise certificate;
8. operating permit questionnaire or TCO-approval;
9. declaration concerning an authorised recipient in Germany;
10. aviation security plan; and
11. in case of carrying cargo or mail: ACC3-designation according to Regulation (EC) No. 300/2008 for third-country airports that do not have equivalent security standards.^[12]

Fifth freedom flights

Proof must be brought to the LBA that German air carriers are neither prepared nor in a position to conduct the flights (declaration of non-availability). This proof is not required for cargo air services conducted by EEA air carriers. In the case of air carriers from EEA Member States with an accredited branch in Germany, a declaration of non-availability need not be submitted.

Flights on a commercial basis for other purposes (aerial work, flight with balloons, local flights) – air carriers from non-EEA Member States

For these types of flights, entry is not permitted without explicit entry permission.

The following documents must be provided to the LBA:

1. proof of relevant permission by the state of registry to perform the activity applied for;
2. third-party legal liability insurance;
- 3.

liability insurance covering damage to persons, baggage, cargo and damage caused by delay;

4. certificate of registration;
5. certificate of airworthiness;
6. noise certificate; and
7. declaration of non-availability of the German companies.^[13]

Flights on a commercial basis for other purposes – air carriers from EEA Member States

According to Regulation (EC) No. 1008/2008, air carriers from Member States of the EEA are allowed to operate traffic rights on routes in the intra-Community air traffic in the EEA. A separate application or notification is no longer necessary. This applies also for air carriers from Switzerland. Until an agreement between the EU and Switzerland with regard to the approval of cabotage operations comes into force, Swiss aviation companies cannot be granted cabotage rights in Germany.^[14]

Safety

Safety requirements for operators

In Germany, safety issues are largely governed by EU regulations.

The national rules governing air traffic safety are primarily the German Air Traffic Regulation (LuftVO), the Regulation for the Operation of Aircraft (LuftBO) and the Regulation on the Examination of Aircraft (LuftGerPV).

Article 1 LuftVO determines that every participant in air traffic must act in such a way that safety of the air traffic is guaranteed and that no one is endangered or harmed.

In respect of safety matters, the LuftVO determines, inter alia, the rights and obligations of the pilot in command, including the right to decide in respect of the operation of the aircraft and to undertake all measures during flight, takeoff and landing that are necessary. Article 6 indicates the minimum safe altitude of 300 metres or 1,000 feet above the highest obstacle within 600 metres over cities, densely populated areas, crowds, industrial plants, scenes of accidents and disaster zones; and 150 metres or 500 feet in other cases. According to Article 12, a distance of at least 150 metres must be kept from buildings or other obstacles (except during takeoff and landing) to avoid collisions. Article 13 regulates the overtaking, the making of way and the avoidance of collisions in the air. Article 17 determines which lights an aircraft has to use between sunset and sunrise. Article 28 et seq. contain the rules on visual flight and Article 36 et seq. contain the rules on instrument flight.

The LuftBO applies only as far as EU regulations do not apply and to (1) aircraft that are registered in the German aircraft register; (2) aircraft for which the Federal Republic of Germany has assumed responsibility; and (3) aircraft that are registered in a different

country but have a German approval for round-trip flights without intermediate stops or hot-air balloon flights. The LuftBO and the third implementation regulation of the LuftBO stipulate the equipment to be carried on board an aircraft (such as safety belts, signals, oxygen systems, life vests, an airspeed indicator, two barometric altimeters, a variometer, a gyro, a magnetic compass, a first-aid kit and a fire extinguisher), depending on the intended flight type (visual flight or instrumental flight, flights over water, flights over land, etc.). As to the crew, the LuftBO stipulates that crew members shall not exceed the age of 60. Pilots must have sufficient knowledge concerning the route and the airports they use. They must be examined twice per year in respect of their capability to operate an aircraft, especially concerning emergencies. Furthermore, the crew must be trained for emergencies both on the ground and in the air. They also have to be trained regularly in the usage of rescue and safety devices.

The LuftGerPV regulates the requirements and the procedure of the examination of aircraft concerning their airworthiness in terms of development, manufacturing and maintenance as far as Regulations (EC) No. 216/2008, No. 748/2012 and No. 2042/2003 are not applicable. The examination is made by way of a type inspection (in the case of the development and manufacture of the aircraft) and by control of maintenance measures or verified maintenance checks. In most cases, the LBA is the authority competent to issue the certificate of airworthiness.

Accident reporting

Under Article 5 LuftVO, accidents of civil aircraft must be reported immediately to the German authority for the investigation of accidents and disruptions, the Federal Bureau of Aircraft Accident Investigation (BFU) by the pilot, a crew member or the owner of the aircraft. Incidents that endanger or could endanger an aircraft, its passengers or third persons must be reported to the LBA (Article 5b LuftVO). A danger to the air traffic must be immediately reported by the pilot to the competent air traffic control (ATC) (Article 20 LuftVO).

Under German law, accident investigation and reporting is governed by the Law on the Investigation of Accidents and Disruptions in the Operation of Civil Aircraft (FIUUG), which is the transposition of Directive 94/56/EC into German law.

The FIUUG applies to accidents and disruptions that occur in the Federal Republic of Germany and applies to:

1. accidents in which:
 - a person suffers a fatal or severe injury onboard or in connection with an aircraft; and
 - an aircraft has suffered damage because of which the aircraft's performance, its structural strength or flight characteristics are impaired and the reparation involves considerable efforts or a replacement of the damaged part;
2. disruptions that impair or could impair the safe operation of a flight;
3. fatal injuries; and
4. severe injuries, especially if an accident:

- requires a hospital stay of more than 48 hours within seven days as from the injury;
- entails bone fractures (except simple fractures of fingers, toes or nose);
- entails lacerations with severe bleeding or injuries of nerves, muscles or tendons;
- entails damages to inner organs; or
- entails second- or third-degree burns or of more than 5 per cent of the body surface.

The BFU establishes a report on every investigation in which, inter alia, the details of the accident or disruption, the aircraft concerned, the external circumstances, the results of the investigations and the discovery of the (potential) cause of the accident or disruption are indicated. When establishing the report, the BFU may hear the operator of the aircraft, the manufacturer, the crew, representatives of foreign states, ATC and the German Meteorological Service. The BFU may also request assistance, information, documents and equipment from other states for conducting the investigation.

Insurance

Insurance requirements for air carriers and aircraft operators are set out in Regulation (EC) No. 285/2010 amending Regulation (EC) No. 785/2004 of 21 April 2004.

This Regulation applies to all air carriers and to all aircraft operators flying within, into, out of or over the territory of a Member State to which the Regulation applies. Air carriers and aircraft operators shall be insured in accordance with this Regulation as regards their aviation-specific liability in respect of passengers, baggage, cargo and third parties. The insured risks shall include acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion.

For liability in respect of passengers, the minimum insurance cover shall be 250,000 SDR per passenger. For liability in respect of baggage, the minimum insurance cover shall be 1,288 SDR per passenger in commercial operations. For liability in respect of cargo, the minimum insurance cover shall be 22 SDR per kilogram in commercial operation. These figures, however, do not apply with respect to flights over the territory of the Member States carried out by non-Community air carriers and by aircraft operators using aircraft registered outside the Community that do not involve a landing on, or take-off from, such territory.

In respect of liability for third parties, the minimum insurance cover per accident, for each and every aircraft, depends on the MTOW. For instance, the minimum insurance for an aircraft with an MTOW of less than 500,000 kilograms would be 500 million SDR and for an aircraft with 500,000 kilograms or more, the minimum insurance would be 700 million SDR.

The Member States shall ensure that air carriers and aircraft operators comply with this Regulation. Member States may request evidence of compliance with the insurance requirements laid down in this regulation.

With regard to Community air carriers, sanctions for infringement of this Regulation may include the withdrawal of the operating licence. With regard to non-Community air carriers, the sanctions may include refusal of the right to land on the territory of a Member State.

If the aircraft operator is not a Community carrier, the minimum insurance cover has to be in accordance with Article 37 of the LuftVG. The figures are the same as in Article 7 of Regulation (EC) No. 785/2004 (i.e., it depends on the MTOW).

With an aircraft hull insurance the interest of the owner in the maintenance of the asset value can be insured. The insurer must pay for loss or damage to the aircraft up to the agreed insurance sum.

Another (not mandatory) type of insurance is aviation accident insurance. The insurer must pay the agreed sum to a passenger or to the employees of the air carrier on a strict basis (i.e., without clarifying whether or not the requirements for the liability of the air carrier are fulfilled (as would be the case in mandatory liability insurance)).

Competition

Relevant competition provisions and their implementation

When several market participants act on a saturated, competitive market, there is a risk – and it is the natural aspiration of the companies concerned – of reducing competition or even to restrict competition completely.

Considering the vast number of air carriers worldwide, the high pressure on pricing and the considerably increasing costs (especially in the past few years), one can only confirm that civil air transport is a very competitive market.

At first sight, it appears to be a logical consequence that airlines have always been the addressee of European and German competition and cartel laws. The applicability of European competition and cartel regulations is, however, not as self-evident as one may think; in fact, it was only clarified by way of a judgment of the ECJ of 30 April 1986 (*Nouvelles Frontières*), Case C-209–213/84.

The applicable EU stipulations are Article 101 et seq. of the Treaty on the Functioning of the European Union (TFEU) as well as Regulation (EC) No. 1/2003, whereas the relevant German law is the Act against Restraints on Competition (GWB).

Article 101 paragraph 1 TFEU contains a general prohibition of agreements and practices that restrict competition, whereas paragraph 2 stipulates that 'any agreements or decisions prohibited pursuant to this Article shall be automatically void'. In the field of aviation law, these restrictions are mainly relevant in the case of agreements and cooperations of any kind between several airlines, for example concerning code-sharing, strategic alliances or agreements on tariffs.

According to Article 102 TFEU, 'any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it' is prohibited 'as incompatible with the internal market in so far as it may affect trade between Member States'. In the field of aviation, violations of this provision could be seen in connection with

frequent flyer programmes, interlining or in the case of certain commission regulations for travel agencies.

In Germany, as well as these EU stipulations, the provisions of the GWB apply, which also aim to ensure functioning and effective competition by preventing restrictions to competition.

However, upon entry into force of Regulation (EC) No. 1/2003 on 1 May 2004, German competition law was largely adapted to European competition law, except in the field of merger control.

However, it is stipulated in Article 22 GWB that the GWB provisions remain applicable next to the Articles 101 and 102 TFEU. Yet, according to Article 3 paragraph 2 of Regulation (EC) No. 1/2003 and Article 22 paragraph 2 GWB, the application of German competition law may not lead to results different from Articles 101 and 102 TFEU.

Consequently, Article 1 GWB, which stipulates that 'agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade and which have as their object or effect the prevention, restriction or distortion of competition' are prohibited (prohibition of cartels), also applies to airlines within Germany.

Additionally, Article 18 et seq. GWB determine the prohibition of the abuse of a dominant market position and other practices restricting competition, as does Article 102 TFEU.

Cooperation agreements between operators

With this background, cooperation between airlines is vetted on the basis of the aforementioned standards as to whether they lead to an illegal restriction of competition or whether they are an abuse of a dominant market position.

For example, pursuant to Article 101 TFEU and Article 1 GWB, price-fixing agreements concerning passenger tickets or cargo rates are considered to be a violation of the cartel prohibition. If the airlines come to agreements on the calculation of tariffs that then lead to the fixing of a price, this may already be considered as a violation of the cartel prohibition.

Also, capacity agreements are an infringement against European and German competition law as such agreements lead to an artificial shortage of choice concerning certain routes.

However, cooperation agreements that have no or only a small influence on the market are permissible.

For this reason, code-sharing agreements are not per se illegal as they do not necessarily restrict competition. Therefore, when considering the legality of a code-sharing agreement, the individual agreement and its effects on competition must be taken into account. However, even if such a code-sharing agreement leads to a restriction of competition, this does not mean that the cooperation agreement is necessarily illegal; especially since the Commission generally finds the effect of code-sharing agreements positive. As far as the airlines are prepared to make concessions in other areas – such as the release of slots or the provision of interline offers – code-sharing agreements that restrict competition may nevertheless be permissible.

Criminal liability for breaches of cartel law

Because they are largely alike, German and European competition law have in common that they address undertakings and associations of undertakings and thus not the individuals who act for them.

Under German law, violations of competition law are not considered and pursued as criminal offences but as administrative offences. Under German law, administrative offences can only be committed by natural persons and not by undertakings.

However, a violation of competition law can only be committed by an undertaking (as stipulated in Article 101 TFEU). Therefore, this violation of competition law must be attributed to the individual, as provided in Articles 33 et seq. and 81 GWB in connection with Article 9 of the German Act of Administrative Offences (OWiG), to come under individual liability. An individual can be subject to a fine of up to €1 million.

Additionally, as the individual acted on behalf of the undertaking, the individual's act can be attributed to the undertaking, with the result that the undertaking's liability is assumed.

Articles 30 and 130 OWiG provide for such attribution of the individual's act to the undertaking so that, in the case of violations of competition law, a separate fine can be imposed on the undertaking (and also on the individual).

According to Article 81 paragraph 4 GWB the amount of the fine against the undertaking can be up to 10 per cent of the undertaking's turnover from the previous business year.

Under German competition law, the focus is to sanction the undertakings involved in a violation of competition law as they are the profiteers of the infringement not the individuals acting for these undertakings. Therefore, the German Federal Cartel Office has usually only pursued the undertaking and not the individual.

Wrongful death

See 'Establishing liability and settlement', below.

Establishing liability and settlement

Procedure

In the German aviation sector, the vast majority of cases are settled out of court. The conditions of the settlement are usually negotiated by the parties' lawyers. As a rule, the releasee wishes to obtain a release signed by the releasor. In German legal practice, the releases are relatively short. In most of the cases, they consist of no more than one to three pages. The release should state the facts that gave rise to the claim, the extent of the release and discharge and the governing law. In many cases, releases are only to be signed by the releasor. From a legal point of view, the signed release is an offer of the releasor to the releasee for the conclusion of a settlement agreement. This offer is accepted by the releasee by payment of the settlement amount. However, some releasors prefer a settlement agreement signed by both the releasor and the releasee. The settlement

agreement is a binding contract. Should the releasee fail to pay the settlement amount after the settlement agreement has been signed by both sides, the releasor is entitled to bring an action against the releasee based on the signed settlement agreement.

If the settlement negotiations fail, the claimant has to initiate proceedings before the claim becomes time-barred. Under German law, the standard limitation period is three years. It commences at the end of the year in which the claim arose; and the obligee obtains knowledge of the circumstances giving rise to the claim and of the identity of the obligor, or would have obtained such knowledge if they had not shown gross negligence (Article 199 of the German Civil Code (BGB)). If negotiations between the obligor and the obligee are in progress in respect of the claim or the circumstances giving rise to the claim, the limitation period is suspended until one party refuses to continue the negotiations. The claim is statute-barred three months after the end of the suspension, at the earliest (Article 203 BGB). The action is to be brought before the court at the place of the defendant's residence or head office, unless the parties to the litigation have validly agreed on the jurisdiction of another court. Actions based on rights in property against the person who has no residence or head office in Germany can be brought before the court at the place where the defendant has assets such as an office, a bank account, property, etc.

For complaints arising from tort, the court in the jurisdiction of which the tortious act was committed shall have jurisdiction (Article 32 of the German Civil Procedure Code). For complaints arising from tort, the claimant has the choice between the court at the place of the defendant's residence or head office and the court in the jurisdiction in which the tortious act was committed.

If more than one person is responsible for the damage arising from a tort, then they are jointly and severally liable (Article 840 BGB). This means that the claimant can choose whether to bring action against one, several or all liable parties. If the claimant sues more than one party for the same damage and the court holds these persons liable as joint and several debtors, it is up to the claimant to decide from which of these liable parties they shall request payment of the full amount of damages awarded by the court. The defendants will then have to agree on the share of liability internally. Should they not be able to do so, they can initiate proceedings to clarify this issue.

Carriers' liability towards passengers and third parties

Carriers' liability towards passengers is governed by European legislation. To the extent that European legislation does not apply as in the case of a domestic, non-commercial flight, the claim can be based on the LuftVG, which contains liability rules that are consistent with the European liability rules.

Carriers' liability towards third parties is governed by Article 33 LuftVG, if German law applies. Article 33 stipulates the strict liability of the aircraft operator in the case of death, bodily injury or damage to a thing. Article 33 does not apply to persons or things onboard the aircraft. The liability under Article 33 is strict liability without any exception or any possibility of exculpation. The liability under Article 33 is limited depending on the weight of the aircraft. In the case of an aircraft with a weight of more than 500,000 kilograms, the operator's liability is limited to 700 million SDR. In the case of death or injury of a person, the liability is limited to €600,000.

If the death or injury of a passenger or third party resulted from a criminal act such as bodily injury or death caused by negligence or involuntary manslaughter committed by an individual, such individual may be faced with criminal persecution. Only individuals can be held criminally liable, not companies. However, criminal liability of an individual may result from an organisational fault.

Product liability

In Germany, the Product Liability Act applies under which the manufacturer can be strictly liable if the product caused death, injury or damage.

The maximum liability in the case of personal injury is limited to €85 million. The claim becomes time-barred in three years.

The manufacturer is not liable if it was not the one who put the product on the market or if the product did not have the defect when it was put on the market. A defect to the product is assumed under the Product Liability Act when it is not as safe as one can reasonably expect.

Also, the party who puts a product on the market for the purpose of selling or renting it to someone can be regarded as the manufacturer under the Product Liability Act (e.g., an importer).

Besides the Product Liability Act, liability can be engaged under the German law of tort, although this requires at least negligence.

Under German law, there is a legal duty to maintain safety. In this respect the manufacturer has the duty to survey the product with a view to possible risk. If such a risk is detected, the manufacturer has to take the necessary measures to avoid damage. As under the Product Liability Act (e.g., the importer of an aircraft also has the same duties).

Liability is also possible in the case of defective instruction, fabrication and instruction.

Under the German law of tort, no liability limits apply. Material damages and also moral damages may be recoverable.

Compensation

Compensable types of loss or damage – injuries onboard

In the case of an injury on board, the injured passenger is entitled to the following positions.

Reimbursement of medical costs

Should the injured have had any expenses in connection with their medical treatment (e.g., costs for medicine, doctor's fees, transportation costs to see a doctor) they are entitled to reimbursement of these costs.

The expenses for medical treatment made by their health insurance must be reimbursed to the health insurance company (i.e., both the passenger and the health insurance company have their own right to claim).

Damages for pain and suffering

Depending on the severity of the accident and the injury, the injured passenger can be entitled to damages for pain and suffering. The amount of damages strongly depends on the extent of the injury, the number and severity of the operations, the duration of the medical treatment, the duration of the inability to work, psychological consequences, the factual consequences and the question of whether the injured has permanent damages.

The amounts can range between about €500 (e.g., for burns because of spilled coffee) and €20,000 (e.g., for permanent damage leading to disablement).

Loss of income

If the injured passenger was not able to work because of their injury, they are entitled to payment of their income to the extent that it is not paid to them by their insurer. However, if the insurer pays sickness benefit to the injured, the insurer is entitled to claim for reimbursement from the air carrier.

The right to payment of income exists for the complete time in which the injured is not able to work.

However, the injured is obliged to mitigate the damage as much as possible. If the injured is no longer able to work in their profession at all because of the injury, they are obliged to find another job that corresponds with their abilities or that they can adapt to, or to work part-time.

Should special training or special equipment be necessary for the new job, the injuring party is obliged to pay for this as well.

Fatal accidents

Under German law and legal practice, in the case of a fatal accident, four types of loss or damage are compensable to the dependants of a deceased passenger:

Pre-death pain and suffering

The heirs of the deceased passenger are entitled to compensation in respect of the passenger's justified claim for pre-death pain and suffering. The heirs may be determined by a last will. If there is no last will the legal heirs are determined by law. Basically, under German law the spouse inherits 50 per cent, and children (one or more together) the other 50 per cent. Only if there are no children would the legal heirs be the parents and siblings besides the spouse.

The amount of compensation granted by German courts for pre-death pain and suffering is determined by how long the suffering lasted before the person died. For example, the Federal Court of Justice ruled that in the case of an accident where a person was severely injured and died a few seconds after the accident, no compensation for pain and suffering can be claimed. On the other hand, the fact that the deceased had mortal fears or that they had an early death leads to an increase in the compensation amount.

It is crucial for the amount of compensation whether the injured was conscious and aware of the life-threatening situation or whether they were in a state of unconsciousness or insensitiveness until their death. If the death of the person does not occur immediately upon the event of the accident, but the process of dying only takes a very short time in which the injured does not reacquire their cognitive abilities, compensation is not granted at all as the bodily injury is not considered as an immaterial impairment requiring financial compensation.

We have found judgments awarding compensation from €500 (death several minutes after an accident) up to €20,000 (death 36 hours after brutal mistreatment).

Funeral expenses

The heirs of the victim who are obliged to bear the funeral expenses are entitled to reimbursement of the funeral expenses. Reimbursable funeral expenses usually are the expenses for:

1. the funeral undertaker;
2. the 'normal' mourning ceremony and the subsequent funeral meal;
3. the tombstone;
4. the establishment of the grave; and
5. death notices and thank-you cards.

In a normal case, the reimbursable funeral expenses will not exceed €20,000. However, if the victim was a well-known person with a wider sphere of activity or influence the reimbursable funeral expenses may exceed €20,000.

Loss of maintenance

If the victim was legally obliged to pay and actually paid maintenance, the dependant is entitled to compensation for the loss of such maintenance. Dependents that are entitled to such a claim for loss of maintenance are usually the spouse, children that are still minors, and in some cases, also the parents. The more the victim earned, and the younger the spouse and children were at the time of death, the higher the claim for loss of maintenance.

Moral damages

Until the new paragraph 3 of Article 844 of the German Civil Code came into force on 22 July 2017, under German law, the loss of a close relative in an accident did not automatically justify a claim for moral damages. Only under certain rather strict circumstances the next-of-kin of a deceased were entitled to compensation for nervous shock. This is a claim in tort.

Such compensation for nervous shock was granted by German courts only if the three following preconditions were fulfilled:

1. the claimant must be the next-of-kin of the injured or deceased. Next to family members, the fiancé or the partner in life of the injured or deceased can also be entitled to compensation for nervous shock;
2. the claimant must suffer a severe psychical impairment due to the injury or death of their family member or their partner. In cases of 'normal' mourning, compensation is not granted by the courts. To receive compensation, the claimant must prove an impairment of health that considerably exceeds the impairments, that family members as indirectly affected persons usually suffer from such psycho-pathological deficits during a longer period; and
3. the event causing the injury or death of the person must objectively be a sufficient cause for the mental distress of the family member. According to the court rulings, severe injuries or the death of a person is considered sufficient even if the family member did not witness the accident but was only notified of the severe injuries or the death.

In various court decisions, compensation was declined because the impairments put forward were not considered as ailments because the claimant was not a family member of the deceased.

In cases in which compensation was granted from the courts, the compensation amounts were, for example, the following; in all cases, the claimants proved extraordinary mental impairments over a long period:

1. €2,500 was granted to a mother in 1994 whose 17-year-old daughter was stabbed and killed before her eyes by a young man the girl rejected;
2. €4,500 each was granted to the parents of a 12-year-old boy who was struck dead by a gravestone in 1997, although contributory negligence of the boy was assumed;
3. €5,000 each was granted to two children who witnessed their mother being shot and killed in 1998;
4. €10,000 was granted to a father whose daughter was killed in a car accident in 1998;
5. €30,000 and €15,000 were granted in 1995 to the parents of three children who were all killed in a car accident. The difference of the sums is based on the different severity of impairments suffered by each of the parents; and
6. €20,000 each (i.e., a total of €80,000) was granted by the Federal Court of Justice in 2006 to the parents and siblings of an 11-year-old boy who drowned in a deficiently maintained swimming pool.

As can be seen from these examples, the amounts granted by German courts for nervous shock have increased over the years. Furthermore, according to our experience, it appears that German courts are now more inclined to assume the prerequisites of nervous shock to be fulfilled.

The amendment of Article 844 of the Civil Code now grants a statutory right to damages for pain and suffering to the next-of-kin of the deceased or injured person. Whereas the persons to be counted among the close relatives has now been stipulated by law, the

above mentioned further prerequisites (severe psychological impairment and objective cause for mental distress) still have to be fulfilled.

State-funded social security system

In Germany, a state-funded social security system exists. Health insurance and accident insurance are the crucial types of insurance in connection with air accidents. Most of the insurance companies are institutions under public law and are partly state-funded.

Under German social security law, insurers can recover costs from third parties, especially the injuring party.

Drones

Since the beginning of 2021, the EU-wide Regulations 2019/947 and 2020/746 for the operation of unmanned aircraft (drones) have been in force so that now only few regulations apply under German law. In July 2021, the German regulations on drones of 2017 were therefore replaced by the new Article 21h LuftVO, which, inter alia, refers to the EU Regulations. However, the establishment of flight zones for drones remains in national jurisdiction.

In principle, according to Article 21h(1) LuftVO, the use of airspace by unmanned aerial vehicles is open to everyone. In fact, however, there are numerous restrictions as can be found in Article 21h(3) LuftVO and in various other legal provisions. In particular, the operation of drones within a distance of 1,000 meters from an airport is only permitted under very strict conditions (Article 21h(3) No. 2 LuftVO).

Intentional violations of these provisions are sanctioned by a prison sentence of up to 10 years under Article 315(1) of the German Criminal Code (StGB). If a violation leads to a restriction of air traffic, airlines and the airport operator can claim for damages from the drone operator under the general rules of tort law, whereby fault on the part of the operator must be proven. If an accident occurs as a result of controlling a drone, there is a claim for damages against the operator regardless of fault in accordance with Article 33(1) LuftVG, whereas a liability limit applies. A liability limit does not apply in the event of proven fault on the side of the drone operator.

Voluntary reporting

To the best of our knowledge, there are no voluntary reporting initiatives in Germany.

Outlook and conclusions

Following the time-out during the covid-19 pandemic, the number of lawsuits against airlines filed with German courts increased by around 40 per cent last year to more than 70,000 cases. The reason for this is primarily the mass assertion of passenger rights due

to flight cancellations and delays through the internet portals of legal tech companies, which is threatening to overload, and in some cases block, the competent civil courts.^[15]

The German judicial authorities see a possible measure in the implementation of artificial intelligence. Since 2021, for example, the pilot project 'Frauke' has been running at the Local Court Frankfurt, which is intended to support judges in similar cases with text modules and suggested judgments but without anticipating the final decision. To this end, the software evaluates boarding passes, flight times, weather data and previous decisions in comparable cases.

According to the authorities, the cases on passenger rights are particularly suitable for testing purposes as they 'often only differ in name and date'.^[16]

Endnotes

- 1 https://de.wikipedia.org/wiki/Liste_der_Verkehrsflughäfen_in_Deutschland. ^ [Back to section](#)
- 2 Pursuant to the German Regulation on the Implementation of Airport Coordination (FHKV). ^ [Back to section](#)
- 3 https://www.lba.de/DE/Presse/Statistiken/Statistiken_node.html. ^ [Back to section](#)
- 4 <https://www.lba.de/SharedDocs/Downloads/DE/SBI/SBI3/Statistiken/Betrieb/DeutscheFluggesellschaften.html;jsessionid=CAD078E0D5616BB98FB5562F083FCC4D.live11293?nn=2092166>. ^ [Back to section](#)
- 5 <https://www.lba.de/SharedDocs/Downloads/DE/SBI/SBI3/Statistiken/Betrieb/AnzahlAuslaendischeFluggesellschaften.html;jsessionid=CAD078E0D5616BB98FB5562F083FCC4D.live11293?nn=2092166>. ^ [Back to section](#)
- 6 https://www.lba.de/SharedDocs/Downloads/DE/SBI/SBI3/Statistiken/Betrieb/RampChecks_nurAuslaender.html;jsessionid=CAD078E0D5616BB98FB5562F083FCC4D.live11293?nn=2092166. ^ [Back to section](#)
- 7 The agreements can be seen under https://www.lba.de/DE/Luftfahrtunternehmen/Genehmigungen/83bis/83_node.html. ^ [Back to section](#)
- 8 <https://www.lba.de/SharedDocs/Downloads/DE/SBI/SBI3/Statistiken/ZentraleDienste/AnzeigenGrund.html;jsessionid=013B263435D34EF51716C6B509DAFADB.live11291?nn=2092166>. ^ [Back to section](#)
- 9 <https://www.lba.de/SharedDocs/Downloads/DE/SBI/SBI3/Statistiken/ZentraleDienste/AnzeigenHerkunftLU.html;jsessionid=013B263435D34EF51716C6B509DAFADB.live11291?nn=2092166>. ^ [Back to section](#)

- 10 https://www.2023.icao.int/secretariat/legal/Status%20of%20individual%20States/germany_en.pdf. ^ [Back to section](#)
- 11 https://www.lba.de/EN/Operations/EntryPermissions/Scheduled_Air_Services.html?nn=2099536. ^ [Back to section](#)
- 12 https://www.lba.de/EN/Operations/EntryPermissions/Charter_Non_EU.html?nn=2099536. ^ [Back to section](#)
- 13 https://www.lba.de/EN/Operations/EntryPermissions/Other_purposes_Non_EEA.html?nn=2099536. ^ [Back to section](#)
- 14 https://www.lba.de/EN/Operations/EntryPermissions/Other_purposes_EEA.html?nn=2099536. ^ [Back to section](#)
- 15 <https://www.lto.de/recht/justiz/j/klagewelle-gegen-airlines-berlastet-gerichte/>. ^ [Back to section](#)
- 16 <https://www.hessenschau.de/panorama/amtsgericht-frankfurt-kuenstliche-intelligenz-hilft-bei-massen-urteilen-v1,amtsgericht-roboter-100.html>. ^ [Back to section](#)


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Introduction

Israel's geopolitical situation makes air transportation a vital factor in maintaining its connections with the rest of the world.

The Israeli aviation sector has undergone major changes in recent years. The first of these was the enactment of the Aviation Services Law (Compensation and Assistance for Flight Cancellation or Change of Conditions) 2012 (ASL), establishing passenger rights, similar to those under Regulation (EC) No. 261/2004, to compensation and other benefits in the case of flight delays or cancellations and denial of boarding (as a result of overbooking, etc.).

Another major change was the liberalisation of Israel's policy on bilateral and multilateral air services agreements and the resulting signature of the EU–Israel Open Skies Agreement in 2012.^[1] This change in policy has resulted in a significant increase in the operations of foreign airlines (including low-cost airlines) and the frequency of flights to and from Israel, as well as a decrease in airfares. Thus, for example, international passenger traffic passing through Israel's main international airport, Ben Gurion Airport (TLV), increased by more than 90 per cent between 2012 (12.4 million) and 2019 (24.036 million).^[2] This growth ceased in the following years due to the covid-19 pandemic. Starting in March 2022, a rapid and significant recovery process began and continued throughout the year, which ended with traffic of 19.2 million passengers and about 114,000 international flights to and from TLV.^[3] 2023 began with the expectation of 24 million international passengers – a record year in aviation activity in Israel. Since 7 October 2023, the State of Israel has been in one of the most difficult periods in its history (the *Iron Swords* war). The impact of the war is evident also on civil aviation. Nonetheless, international passenger traffic during 2023 stood at 21.1 million passengers (a 9.71 per cent increase over 2022), with 144,869 international aircraft movements (an increase of 8 per cent over 2022).^[4] The agreement reached in October 2025 providing for cessation of the war brings with it the hope of an increase in international traffic to and from Israel going forward.

The Israeli Ministry of Transportation (MOT) has primary responsibility for regulation of the aviation sector. In 2005, the MOT established the Civil Aviation Authority of Israel (CAAI) to oversee, regulate and supervise all aviation-related matters, including the issue of aviation licences and permits. The body responsible for airports is the Israel Airports Authority. The Aviation Security Operation Centre (ASOC) in the Security Department of the MOT oversees aviation security. Aviation security is a priority in Israel in the light of constant terrorist threats. Operating permits will not be granted unless ASOC has received and approved a written confirmation of compliance with ASOC's security requirements from the relevant foreign airports and airlines.

Allocation of slots at TLV is carried out in accordance with the Aeronautical Information Publication (AIP), which gives priority to scheduled flights and to maintenance of existing allocations, subject to exercise of those allocations in the relevant previous period.^[5]

Year in review

As expected, legislation and case law in the aviation sector over the past year has focused on the impact of the Iron Swords War. Both the legislature and the courts were required to address civil aviation legislation – particularly the Aviation Services Law (ASL) – and to consider whether laws enacted for routine circumstances and the interpretation thereof should be adapted to the state of emergency in which Israel has been since 7 October 2023.

On 10 February 2025, after extensive deliberations, the Israeli legislature (the Knesset) approved an amendment to the ASL. The amendment exempts airlines from paying statutory compensation for flights cancelled during periods of actual or expected warfare (7 October–30 November 2023; 12–18 April 2024; 3–8 August 2024; and 1–5 October 2024). It also reduces the required notice period for cancellations by airlines of flights scheduled for the period between 1 December 2023 and 19 February 2024, from 14 to three days. Regarding alternative flights, as long as a 'special situation on the home front' remains in effect (beginning 7 October 2023 as aforesaid), airlines which have suspended operations to or from Israel must offer passengers alternative flights from or to nearby locations, on similar conditions and dates, subject to seat availability and the passenger's written consent.

On 10 June 2025, the Tel-Aviv District Court rendered its judgment in a motion for leave to appeal a small claims court decision denying a passenger's claim for reimbursement of the price difference between the cancelled flight and an alternative flight the passenger had purchased independently from another airline. The applicant argued that the airline had violated the ASL by failing to provide a suitable alternative flight, as the only option offered departed two weeks later. The District Court denied the motion, finding that the airline had fulfilled its obligations by offering a reasonable alternative flight given the security situation. The court held that the ASL provides specific remedies – assistance, refund or alternative flight – and that the applicant's rejection of the offered flight entitled them only to a refund. It further rejected the argument that the airline should have arranged a flight with another carrier, noting that such an obligation would be unreasonable in wartime conditions. The court added that passengers seeking greater certainty during times of instability can choose Israeli airlines, albeit at higher prices.^[6]

On 11 August 2025, the Jerusalem District Court rendered its judgment in an application for leave to appeal a small claims court decision denying statutory compensation to a passenger whose flight was cancelled. The applicant argued that, since the flight was cancelled on a date not specified in the amendment to the ASL referred to above, the cancellation could not be justified by the security situation in Israel. The small claims court rejected this argument, finding that nothing in the amendment indicated an intention to prevent airlines from relying on pre-amendment provisions of the ASL and proving that cancellations outside the specified dates occurred due to circumstances beyond their control. The District Court denied the motion for leave to appeal, finding no error in the lower court's ruling, and added that requiring airlines to compensate for cancellations caused by uncontrollable events would raise ticket prices for all passengers unfairly, while passengers can mitigate such risks through travel insurance.^[7]

Although they do not constitute binding precedents, District Courts' rulings provide guidance to lower courts and carry significant normative weight.

Legal framework for liability

International carriage

Israel is party to several international aviation-related conventions governing the liability of air carriers in international carriage, including the Warsaw Convention 1929, the Guadalajara Convention 1961 and the Montreal Convention 1999, as well as their respective protocols. These conventions have been given effect in Israeli domestic law by the Air Transport Law 1980 (ATL). Section 3B of the ATL provides that where both the Montreal Convention and another of the conventions adopted by the ATL apply, the Montreal Convention will govern.

Section 10 of the ATL provides that the liability for damage, including liability for the death of a passenger, of a carrier under the ATL (i.e., the liability of a carrier under a convention made applicable in Israel by the ATL) substitutes the liability of the carrier under any other Israeli law. The Israeli Supreme Court has implemented this rule (the 'exclusivity of grounds of action rule'), holding that where a claim is governed by the ATL, a passenger will not be able to rely on other provisions of domestic law.^[8]

Israel is also party to the Chicago Convention on International Civil Aviation 1944 (the Chicago Convention), adopted into domestic law by the Air Navigation Law 2011 (ANL), and to the Tokyo Convention 1944 on offences and certain other acts committed on board aircraft given domestic effect by the Air Navigation Regulations (Offences and Jurisdiction) 1971.

In contrast, Israel is not a party to the Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment concluded in Cape Town on 16 November 2001.^[9]

Internal and other non-convention carriage

The ATL provides that the Montreal Convention shall apply, *mutatis mutandis*, to internal flights within Israel.^[10] The Aviation Services Regulations (Compensation and Assistance for Flight Cancellation or Change of Conditions) (Internal Flights) 2013 (enacted under the ASL) provide (in modifying the rule under the ASL applying to international flights) that a flight delay of three hours or more for an internal flight shall be treated as cancellation of the flight and vest passengers with the right to compensation accordingly.^[11]

Under Section 338(a)(2) of the Penal Law 1977, the reckless or negligent operation of an aircraft, in a way that could endanger human life or result in injury, is a criminal offence punishable by a prison sentence of up to three years.

General aviation regulation

Civil aviation operations (including the operation of helicopters and gliders) are governed by the ANL and the regulations enacted thereunder. The ANL regulates the identification and registration of aircraft, licensing and training of personnel, airworthiness of aircraft, general operating and flight rules, commercial air services and air navigation services.

Passenger rights

Passenger rights are regulated pursuant to the ATL, by the Montreal Convention (or other applicable convention) and the ASL. The ASL is a pro-consumer act of legislation that regulates passengers' rights and carriers' duties, including those relating to payment of compensation (without the need to prove damage) in the case of flight delays, cancellations, denial of boarding and downgrading.^[12] The ASL also provides that in cases of flight delays of two hours or more and flight cancellations, the carrier is obliged to provide passengers with ground assistance, including communications services, food and beverages and, in some cases, hotel accommodation.

Although very similar to Regulation (EC) No. 261/2004, the ASL includes a number of innovations, such as:

1. the determination that both a delay of eight hours or more and the bringing forward of a flight are considered flight cancellation, and that the bringing forward of a flight by more than eight hours entitles the passenger to the same compensation as that to which a passenger of a cancelled flight is entitled;
2. the authority granted to the court to impose exemplary damages on the carrier in cases of non-compliance with the ASL; and
3. the obligation of a flight operator to station representatives for the provision of assistance to passengers in the exercise of their rights under the ASL at every airport from which the operator commences flights to and from Israel (provided, with respect to flights to Israel, that the passengers hold a return ticket to Israel, including a flight with a stopover).^[13]

In the spirit of the pro-consumer nature of the ASL, the Israeli courts have given a narrow interpretation to the provision in the ASL exempting the carrier from the obligation to compensate passengers in the case of cancellation of flights where the cancellation was caused by special circumstances beyond the carrier's control that could not have been prevented even if the carrier had done everything in its power to do so. In general, therefore, technical malfunctions in an aircraft will not constitute special circumstances,^[14] unless the malfunction is proved to be rare and not to have been preventable by the performance of proper maintenance. In a judicial decision reflecting the same approach, the court held that for an airline to avoid payment of compensation for cancellation of a flight and, in particular, for it to prove that it has done everything within its power to prevent the cancellation, it may be necessary for the airline to prove that it was not able to lease an alternative aircraft or to purchase tickets for its passengers on the flight of another airline.^[15]

Passengers' rights relating to the purchase and cancellation of flight tickets are also regulated by the Israeli Consumer Protection Law 1981 (CPL),^[16] which, in certain circumstances, including transactions made at a distance (by telephone, email, etc.) and, subject to certain conditions, entitles consumers to cancel transactions without cause and to the reimbursement of the price paid, less a small cancellation fee per ticket.^[17]

The carriage of disabled passengers is governed by the Israeli Regulations for Equal Rights for People with Disabilities (Regulation of Access to Public Transport Services), 2003

(RER). The RER lays down certain technical qualifications for the use of aircraft, including a provision that an aircraft shall not be operated for the carriage of passengers if it is not adequately adapted for the disabled.^[18] Section 14 of the RER provides that disabled persons have the right to a suitable escort at the terminal and at the crossing from the terminal to the aircraft; the right to have the appropriate person at the airport of destination notified regarding their expected arrival; and the right to have their wheelchair loaded in a manner enabling it to be placed at their disposal immediately upon disembarking from the aircraft, provided the carrier has received at least 48 hours' prior notice of the disabled person's expected arrival.

Other legislation

Loud noise generated on low-altitude flight routes near populated areas may constitute a nuisance to residents of those areas. With a view to reducing the extent of this nuisance, the Israeli Ministry of Environmental Protection, in conjunction with the Israel Airports Authority, has issued rules governing the construction and planning of airports. Other measures directed to the same purpose include the imposition of night and weekend curfews and the requirement that compliance by an aircraft with the Flight Regulations (Aircraft Noise) 1977 is a condition for issue of a flight permit.

Israel has strict anti-bribery rules. It is a member of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and gave domestic effect to the Convention on 11 June 2008 by adding Section 291A to the Penal Law 1977, providing that a person giving a bribe to a foreign public official for an activity related to their position to obtain, secure or promote business activity or other advantage in respect of business activity shall be deemed to have committed bribery under Section 291 of the Penal Law.

Licensing of operations

Licensed activities

Commercial operation of aircraft

The Licensing of Aviation Services Law 1963 (LASL) and the ANL regulate the licensing of aviation-related activities. An Israeli individual or entity will not be permitted to operate aircraft for commercial purposes without a commercial operating licence (COL) from the MOT and an air operator certificate (AOC) from the CAAI.^[19]

Foreign individuals and entities are not eligible for an Israeli COL or AOC.

To obtain a COL, the Israeli applicant operator must submit evidence of its financial resources, details regarding its operations, crew qualifications and experience, and consumer-related details. The MOT has the power to grant, suspend for a stated period and cancel a COL.

The issue of an AOC is conditional on possession of a COL and is subject to proof that the applicant possesses adequate aircraft and facilities for the operations in question. A detailed list of requirements for the AOC application is set out in the Air Navigation Regulations (Operation of Aircraft and Flight Rules) 1981 (ANR).^[20] The CAAI will grant an AOC only if it is satisfied that the applicant is capable of performing the operations in question in a safe manner. The AOC will be valid for a period of two years and may be renewed by an application filed at least 60 days prior to expiry.^[21]

For commercial aviation operations from, to and within Israel, the operator must obtain operating permits from the CAAI.

Licensing of aviation-related activities

According to the ANL, an individual shall not perform a function in connection with the operation of an aircraft, the performance of aircraft inspections or the provision of air traffic management services without possessing a licence from the CAAI unless he or she is in possession of such licence from a competent authority in a contracting party to the Chicago Convention.^[22]

The following are other activities that require a licence:

1. the training of aviation workers;
2. the operation of an entity for aircraft maintenance and repair of a unit for the provision of air traffic management services and of an airport or a landing strip;
3. the manufacture of aircraft for marketing;
4. the transportation of dangerous goods; and
5. training for operating, or the commercial operation of, a hang-glider, powered hang-glider, paraglider, powered paraglider, powered parachute, unmanned flying model, kite or rocket, radio models, small aeroplanes and training aeroplanes.^[23]

The conditions for the grant of licences are set out in the ANL and the ANR. The CAAI has the authority to revoke, suspend and limit licences granted if, inter alia, one (or more) of the conditions for receiving the licence is no longer met or the licensee has violated any of the conditions of the licence or any of the provisions of the ANR.^[24]

Ownership rules

According to the LASL, a COL will only be granted to an Israeli operator that is one of the following: an individual who is a permanent resident of Israel without a principal place of business outside Israel or an Israeli citizen who has a principal place of business in Israel; or a company incorporated in Israel without a principal place of business outside Israel and controlled by an Israeli citizen or a permanent resident of Israel, or by another person in accordance with the provisions of an international aviation convention to which Israel is a contracting party.^[25]

Foreign carriers

Pursuant to the LASL, foreign carriers must obtain an operating permit from the CAAI for operation of passenger or cargo flights from, to or within Israel.^[26]

Regarding foreign carriers, there are no explicit rules relating to nationality or citizenship, but the LASL authorises the MOT to refuse to grant an operating permit if the applicant carrier is deemed a potential danger to the security of Israel.^[27] For commercial flights, details of the air carrier's ownership, including the nationality of owners and their respective shares of ownership, must be provided in the application for an operating permit.^[28]

Commercial flights

According to the LASL and the AIP, a foreign operator wishing to fly to and from Israel must be eligible to carry out the flights under the provisions of a bilateral or multilateral agreement to which the state of the foreign operator and Israel are contracting parties.

An application by a foreign operator for an operating permit for commercial scheduled flights must be submitted to the CAAI according to the provisions of CAAI Directive AT.1.1.400.^[29] The granting of the permit will be subject to the submission of commercial details relating to, inter alia:

1. ownership;
2. principal place of business;
3. an AOC issued by an appropriate foreign authority;
4. proof of adequate insurance coverage;
5. confirmation of the appointment of local representatives for service of process and for communications with the Israeli aviation authorities;
6. confirmation of valid licences and medical certificates for the crew according to the Chicago Convention; and
7. certifications relating the registration of aircraft, airworthiness and noise.

Additional documents may be required by the Security Division of the MOT for the approval of the operator with respect to security, such as annually renewed confirmations by the operator and the relevant airport that they will comply with the MOT's Security Directive, which prescribes security-related standards on subjects such as passenger and baggage checks, aircraft protection and security procedures for in-flight catering services.^[30]

In addition, the applicant must provide a commitment in accordance with the LASL to appoint a representative for provision of assistance to passengers in the exercise of their rights under the ASL at every airport from which the operator commences flights to and from Israel (including, in the case of flights to Israel, to passengers holding a return ticket to Israel, including a flight with a stopover),^[31] as well as appoint an Israeli representative authorised to act on its behalf under the LASL and constituting an address for service of court documents.^[32]

Non-scheduled commercial flights

To carry out non-scheduled commercial flights, a foreign operator must apply for and be granted an operating permit according to CAAI Directive AT.1.1.402.^[33] The application requirements are similar to those relating to an application for an operating permit for scheduled commercial flights and also include, where applicable, the submission to the CAAI of any relevant charter agreement.

Cargo charter flights

CAAI Directive AT.1.1.402 also applies to cargo charter flights. A cargo charter flight is defined as a flight where a person or a tour operator hires the capacity of an aeroplane for the sole purpose of cargo transportation.^[34] Additional requirements, pertaining specifically to cargo, are stipulated in AIP Israel GEN 1.4,^[35] which covers issues relating to customs, agricultural shipments and live animal importation. Further, as part of the approval process, and in obtaining ASOC's approval, the flights must meet the security requirements set out in the MOT Security Directive, which apply to cargo flights.^[36] The main purpose of the Directive is to prevent the loading of explosives and weapons, incendiaries and other destructive substances or items onto aircraft.^[37]

Overflight

According to the AIP, prior permission is not required for overflight of Israeli airspace or technical stops in Israel if a flight is operated by an aircraft registered in a country that is party to the International Air Services Transit Agreement or if the relevant bilateral air services agreement allows overflying the Israeli airspace or making stops in Israel for non-traffic purposes. In theory, prior permission should not be required for non-scheduled flights operated by aircraft registered in a country that is party to the Chicago Convention and has diplomatic relations with Israel.^[38] In other cases, prior permission will need to be obtained. In practice, prior notification of all overflights should be submitted to the ASOC at least five working days prior to the date of the flight.^[39] In view of Israel's special geopolitical situation, such flights may be made subject to the high-risk security requirements set out in MOT's Security Directive and applicable to flights landing in Israel.

Safety

Israel complies with the accepted international standards in the field of safety. The Israeli safety regulations are based on the Chicago Convention, the safety rules of the International Civil Aviation Organization and the US Federal Aviation Regulations.^[40] Israel is a participating state in the European SAFA programme. Furthermore, in 2016, Israel entered into a collaboration agreement with Eurocontrol, the European Organisation for the Safety of Air Navigation, which engages in airspace planning and air traffic management.^[41] The collaboration agreement provides Israel with access to aviation services, including air navigation services and control, in a way that increases its ability to prevent flight delays and manage air traffic more efficiently and safely.^[42]

Airworthiness

The CAAI is responsible for the issue and renewal of airworthiness certificates. The grant of an operating permit by the CAAI will be subject to the submission by the carrier of an airworthiness certificate, according to standards specified in the ANL, the LASL and the Air Navigation Regulations (Procedures for Documentation of Aircraft and Aircraft Parts) 1977, and the CAAI's directives.^[43]

Maintenance

The aviation maintenance requirements are regulated in the ANL, in Chapter 7 of the ANR and in the CAAI directives. The air operator is under a duty to perform routine aircraft inspection and maintenance and to repair any malfunctions detected in the aircraft, and to ensure that all staff members have the proper qualifications.^[44] In December 2017, in order to bring the Israeli standards into line with the European regulations, the MOT enacted the Air Navigation Regulations (Safety Management System) 2017, which deal with organisational aspects of safety management such as assignment of responsibilities, raising awareness, education and documentation duties.

Accident reporting

In 2024, the Knesset established the Aircraft Safety Investigation Authority (ASIA) to investigate safety-related incidents in civil aviation, in order to be better aligned with international standards.^[45] There is a duty in Israel to report to the CAAI and to the ASIA on the occurrence of safety-related incidents in the aviation field.^{[46][47]} The ANL grants the supervisor of the CAAI as well the head of the ASIA investigatory powers, including the authority to demand any information or document.^[48] The CAAI maintains and operates a system for reporting investigated incidents for the purpose of improving civil aviation safety.^{[49][50]}

Insurance

The MOT regulates the insurance obligations of aircraft operators in Israel. The Aviation Regulations (Compulsory Insurance in the Commercial Operation of Aircraft) 2017 (ARCI), which entered into force on 27 June 2018, are based on the European regulations on this subject. According to the ARCI, an operating permit will be granted only if the aircraft is insured.^[51] This insurance cover is required with respect to every aircraft that may be used in the carrier's operations, including under charter arrangements, joint ticketing arrangements or any other similar arrangement between air operators.^[52] The insurance must cover damage caused to passengers, baggage, cargo and third parties, as well as damage caused by terror events.^[53]

According to the ARCI,^[54] confirmation of existing insurance must include a declaration that the air operator complies with the requirements of the ARCI or the European insurance regulations.^[55]

Competition

Supervision of competition in Israel, including in the aviation sector, is carried out by the Israeli Competition Authority in accordance with Israel's Economic Competition Law 1988 (the Competition Law).^[56] The Competition Law deals with restrictive arrangements, mergers and acquisitions of companies, and monopolies.

In general, restrictive arrangements are unlawful and thus prohibited under the Competition Law, unless expressly permitted or exempted by: (1) any of the statutory exemptions set out in section 3 of the Competition Law; (2) any of the block exemptions applicable under Israeli Law; or (3) an individual exemption granted by the Israel Competition Authority (ICA) upon application made to it, or granted by the Competition Tribunal.

Following legislative changes worldwide that revoked exemptions for restrictive arrangements between carriers, amendment No. 10 to the Competition Law enacted in 2007 significantly limited the exemption in that Law applying to arrangements in the field of aviation. As a result, arrangements between Israeli carriers, or those in which one of the parties is an Israeli carrier or maintains an activity in Israel, became restrictive arrangements necessitating receipt of regulatory approval. Following signature of the United States–Israel Open Skies Agreement^[57] in 2010 and the EU–Israel Open Skies Agreement^[58] in 2012, two block exemptions relating to aviation were enacted: a block exemption for code-share arrangements between air carriers relating to destinations covered by the Open Skies Agreements,^[59] and a block exemption relating to technical arrangements between carriers, arrangements for the lease of aircraft, frequent flyer arrangements, interline arrangements and flight capacity marketing arrangements (the Air Carrier Block Exemption).^[60] In July 2022, the ICA announced that the block exemption for code-share arrangements would not be extended, as its provisions were already included, in practice, in the block exemption for arrangements between carriers.^[61]

A restrictive arrangement that is not covered by the block exemptions or the additional exemptions listed in Chapter B of the Competition Law requires the prior approval of the Competition Tribunal or a specific exemption granted by the Commissioner of the Competition Authority.

The Air Carrier Block Exemption

The Air Carrier Block Exemption is a sectorial block exemption, which enables air carriers to collaborate in various respects without the regulatory burden of notifying the ICA and obtaining its prior approval. The Air Carrier Block Exemption exempts arrangements between air carriers that concern the marketing of flight capacity, leasing, technical cooperation, frequent flyer arrangements, connection arrangements, code-sharing arrangements, etc., subject to satisfaction of the cumulative criteria for obtaining such exemption as specified therein.

In addition, on 25 November 2018, an amendment to the Air Carrier Block Exemption was introduced, whereby parties may self-assess the impact of their agreement on competition in the relevant market in Israel, even if they do not meet the 'safe harbour' criteria of the block exemption (the Self-Assessment Provision). If the parties meet the Self-Assessment Provision, the agreement will not be subject to a specific exemption or approval.

The Self-Assessment Provision exempts an agreement between air carriers, as long as the following cumulative criteria are met with respect to its effect on the pertinent Israeli market.^[62]

1. The main objective of the arrangement is not to reduce or eliminate competition;
2. the arrangement does not include any restraints that are superfluous to its objective; and
3. the restraints in the arrangement do not limit competition in a significant part of the market affected by the arrangement, or are liable to limit competition in a significant part of such market, but do not substantially harm competition in that market.

The Competition Law provides that any person who is party to a restrictive arrangement which has not been approved or has not been exempted in accordance with the Competition Law or by a block exemption pursuant to the Competition Law, or that acts otherwise in contravention of the Competition Law, will be liable to imprisonment or a fine, or both.^[63]

Following the exposure of the existence of an alleged cartel in 2006, investigations against various airlines have been initiated around the world; criminal proceedings have been conducted, some of which have ended in convictions agreed in plea bargains; and several civil lawsuits, by way of class action, have ended in settlement.

A motion to certify a class action regarding the said air cargo cartel was also filed in Israel in 2013 against four airlines (El Al Israel Airlines and three other international airlines). The class action alleges that the airlines were parties to a global cartel concerning the carriage of cargo to and from Israel between 2000 and 2006.^[64] According to the action, the airlines coordinated prices of several items in the cargo carriage tariff, agreed to avoid discounts and exchanged information on earnings and prices. The amount claimed in the class action is 613 million New Israeli shekels. In January 2020, the Central District Court in Israel certified the class action. Application to the Supreme Court for leave to appeal the certification was filed by the airlines and then withdrawn by them on the Court's recommendation and dismissed (2 June 2022).^[65] The class action is pending before the Central District Court in Israel and a pre-trial hearing was scheduled for April–May 2025 (but not held). In March 2024, all of the international airlines being sued in the class action (except for El Al) filed a motion to approve a settlement agreement with the plaintiff, which was approved by the court on 14 March 2025 and published on 3 April 2025.

The Competition Law (ECL) also regulates mergers and acquisitions. A merger that meets one of the thresholds established under the ECL will be subject to notification to and the approval of the Commissioner of the Competition Authority.^[66] A merger will not be approved if there is a reasonable fear that it will significantly affect competition in the sector or will harm the public with regard to the following: the level of prices of an asset or service; low quality of the asset or service; the quantity of the asset or the scope of services supplied; or the frequency and conditions of the supply.^[67]

Wrongful death

Owing to the preemption of claims rule (also known as the exclusivity of grounds of action rule), which applies by virtue of Section 10 of the ATL,^[68] claims relating to the death of passengers in international carriage by air will be subject only to the provisions of the ATL and the Montreal Convention (or other conventions as applicable) adopted by the ATL. Accordingly, in the event of death of a passenger, the carrier will not be able to exclude or limit its liability for damages of 128,821 special drawing rights (SDRs).^[69] The carrier is not liable for damages exceeding 151,880 SDRs only if the carrier can prove that the death of the passenger was not caused by the negligence or other wrongful act or omission of the carrier, its employees and agents, or was caused by the negligence or other wrongful act or omission of a third party.^[70]

The ATL provides that a court dealing with a claim filed for damages resulting from the death of a passenger may issue orders it deems just or helpful having regard to (1) the provisions of the ATL limiting the liability of the carrier, its employees or agents (2) the rights of other persons entitled to claim damages, whether in or outside Israel, for the death of that passenger and (3) other claims that have been or may be filed, whether in or out of Israel, with respect to the death of that passenger.^[71] The ATL also provides that where there are several claimants as a result of the death of one passenger, and the aggregate amount of damages due to all of them exceeds the liability of the carrier under the other provisions of the ATL, the court will award to each claimant, out of the aggregate amount of damages due, an amount proportionate to the amount of damages that it would have awarded to that claimant.^[72]

We are not aware of Israeli case law relating to the death of a passenger during carriage by air and providing an authoritative interpretation of the relevant provisions.

Establishing liability and settlement

Procedure

There is no sector-specific regulation regarding the fora and mechanisms to be used in the settlement of aviation-related claims, so the general rules of Israeli civil procedure are applicable.^[73] In January 2021, new Civil Procedure Regulations came into force (the New Regulations).^[74] The New Regulations provide^[75] that within 30 days of the filing of the last pleading, the parties shall conduct a preliminary meeting the purpose of which is, inter alia, to assess the possibility of resolving the dispute by an alternative dispute mechanism. Not being sector-specific, this provision is relevant for all civil proceedings, including aviation-related claims. Further, in claims for more than 40,000 New Israeli shekels filed in the magistrates' courts,^[76] the parties are required to attend a mandatory 'information, introduction and coordination' meeting with a court-appointed mediator to consider the possibility of the claim being transferred to mediation.^[77] These regulations apply only to civil claims filed after 1 January 2021; claims filed prior to that date will continue to be governed by the Civil Procedure Regulations 1984 (except for certain provisions in the New Regulations which may apply).

Claims under the ATL and the Montreal Convention (and other applicable Conventions) must be brought within two years of the time the cause of action arises.^[78] Claims under

the ASL^[79] must be brought within four years of the time the cause of action arises.^[80] In other cases, the general rules relating to prescription of claims laid down in Israel's Prescription Law, 1958 will apply. That Law provides, subject to certain qualifications, that any action, other than an action relating to land, shall not be brought after the expiry of seven years from the date on which the cause of action arose.

Subject to the court having jurisdiction to entertain an action filed against the defendant concerned, there is no restriction regarding who may be joined as a defendant to the action (e.g., carrier, owner, pilot or manufacturer).^[81] Where the damage is caused to a claimant by the fault of two or more persons, then, in principle, and unless the court directs otherwise, each tortfeasor is liable to the plaintiff for all the damage (i.e., liability is joint and several). However, on the application of one of the tortfeasors, the court will direct the sum of the contribution by one tortfeasor to another as it deems just and fit in the circumstances.^[82]

Carriers' liability towards passengers and third parties

The nature of a carrier's liability will depend on the cause of action concerned. It is strict in the case of Convention liability, when the relevant conditions for liability contained in the Convention are met. Any Convention liability will also be subject to an applicable limit of liability stated therein.^[83] Otherwise, liability will generally be fault based. The plaintiff usually bears the burden of proof, but there are circumstances in which the burden is transferred to the defendant. The requisite standard of proof is the balance of probability.

Even though the plaintiff usually bears the burden of proof, in claims based on negligence, the *res ipsa loquitur* rule may result in the transfer of the burden of proof to the defendant carrier. In claims based on the ASL, the burden to prove that a delay or cancellation was caused because of extraordinary circumstances lies with the flight operator or organiser.

Product liability

There is no Israeli legislation dealing specifically with liability for defective or damaged products in the aviation sector, so that such liability is governed by the general regime under the Liability for Defective Products Law 1980 (LDPL) and the Civil Wrongs Ordinance (New Version). The LDPL establishes strict liability and provides that a manufacturer must compensate any person who has suffered bodily harm as a result of a defect in a manufactured product.^[84] Note, however, that in circumstances where the Montreal Convention applies, liability may be limited in accordance with the provisions of the Convention.

Compensation

According to the Israeli aviation legislation (giving effect to the international conventions), the duty of the air carrier to compensate an injured party is based on the principle of strict liability, subject to proof of damage and the monetary limits laid down in the conventions and reflected in the Israeli legislation.

The Supreme Court has held that the term 'bodily injury' within the meaning of Article 17 of the Warsaw Convention^[85] should be construed broadly, so as to enable the award of damages also for mental injury.^[86] In November 2019, the Tel Aviv District Court rendered

a fundamental ruling reaffirming that, in accordance with Israeli law, compensation for mental anguish in baggage claims may be awarded by virtue of the Montreal Convention (which applies in Israel pursuant to the ATL). However, the total compensation would still be limited to the maximum amount specified in that Convention for baggage claims.^[87] An application for leave to appeal this ruling was dismissed by the Supreme Court on 14 June 2022, the Court thus confirming that the Montreal Convention does not exclude the possibility of awarding compensation to passengers for mental distress.^[88]

The ASL provides for statutory compensation without proof of damage in the case of denied boarding and delay or cancellation of flights, as well as for exemplary damages in the case a carrier fails to fulfil its obligations under the ASL in the circumstances specified therein.^[89]

In August 2020, a district court, in a decision on seven motions to certify class actions against various airlines, and having regard to the exclusivity of grounds of action rule, held that an air carrier may not be sued on additional grounds other than breach of the ASL in circumstances in which the Montreal Convention applies.^[90] The court also ruled, pursuant to Section 20(e) of the Class Actions Law, 2006, that fixed sum statutory compensation under the First Schedule to the ASL cannot be claimed within the framework of a class action because it is a remedy that does not require proof of damage.^[91]

In addition to compensation stemming from aviation legislation, passengers who have sustained physical or mental injury in connection with air carriage may also be eligible for additional compensation under Israeli law. For example, the National Insurance Law 1968 (NIL) provides for payment by the National Insurance Institute of a general disability pension to a person covered by the NIL who has a physical, psychological or mental disability resulting in limited earning capacity. Pursuant to the NIL, the National Insurance Institute may seek recovery from the entity or person responsible for the harm in respect of which such pension (or other such benefit) is paid.

Drones

Israeli aviation regulations enacted in the 1970s and the beginning of the 1980s currently constitute the regulatory framework for the operation of drones and model aeroplanes (together, unmanned aerial vehicles (UAVs)).^[92] Because of the increasing use of UAVs for various purposes in recent years, and the realisation that UAVs pose a threat to air safety (for example, in February 2019, takeoffs and landings at Israel's TLV airport were suspended because of the proximity of drones),^[93] the MOT enacted two sets of regulations in 2024 governing the public use of drones (weighing from 250 grams to 25 kilograms) and model aeroplanes (weighing up to 150 kilograms).^[94] In view of the simplicity of the US Federal Aviation Administration Regulations^[95] dealing with this topic, and the experience gained from their implementation since their introduction in 2016, the Israeli regulations rely on the US model rather than the corresponding European provisions.^[96] The regulations deal with the central aspects of UAV operation, such as requirements relating to the UAV operator (principally, minimum age and the need for a licence), requirements regarding UAV software and hardware, and strict rules regarding the operation of drones in public places (including a ban on operation without direct eye contact, in proximity to an airport or within residential neighbourhoods).^[97] It is interesting

to note that prior to the enactment of the aforementioned regulations, and due to the massive use of drone warfare by Israel's enemies during the Israel-Hamas war,^[98] a special, time-limited regulation that requires all civil drones to carry an RID (remote identification) system and to send identification and operation data in real time to the air traffic control unit,^[99] has been approved by the Economics Committee of the Knesset (Israel's legislature).

Voluntary reporting

To the best of our knowledge, there are currently no voluntary reporting provisions in Israel. However, a regulatory proposal published on 10 October 2024 suggests the introduction of systems designed to receive both voluntary and involuntary reports on incidents of civil aviation, as required by Annex 19 to the Chicago Convention.^[100]

Outlook and conclusions

The continued post-covid-19 growth of the aviation sector in Israel ceased at once following the terrorist attack by Hamas on Israel on 7 October 2024 and the outbreak of the *Iron Swords* war, which hopefully has been brought to an end by agreement reached shortly before the time of writing. Steps towards normalisation with Saudi Arabia, which were expected to have a positive effect on the aviation market in Israel, are currently on hold.

Due to the strong performance of, and confidence in, Israel's anti-missile systems ('Iron Dome', 'David's Sling' and 'Arrow'), the Israeli airspace has remained, on the whole, open for commercial flights throughout the war.^[101] At the same time, while Israeli airlines continue to fly to and from Israel, almost all foreign airlines initially suspended their operations to Israel,^[102] and only recently, when the situation became clearer, began reactivating routes to Israel.^[103] It is expected, following the recent agreement reached for cessation of the war, that the reactivation of routes will be expanded.

As a consequence of population growth, the tiny size of Israel and a lack of vacant areas in the central region of the country (which leads, among other things, to the evacuation of military bases and airports from the centre in favour of construction of residential and office towers), the local airport in the city of Herzliya, in the centre of the country – which serves as the main airport for civilian helicopters – is expected to be closed in the near future. With a view to establishing alternatives, the authorities have begun searching for suitable sites for five helipads in the Tel Aviv area, including roofs of existing buildings, in locations to be approved.^[104]

Endnotes

- 1 Signed and initialled by Israel and the EU Member States on 30 July 2012 and approved by the Israeli government on 21 April 2013. Ratified by the European Parliament on 20 June 2020: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32020D0952>. ^ [Back to section](#)

- 2 Ben Gurion International Airport Activity Summary Annual Report 2012 and Annual Report Ben Gurion International Airport for 2018: <https://www.iaa.gov.il/media/lpgbdeew/%D7%93%D7%95%D7%97-%D7%A4%D7%A2%D7%99%D7%9C%D7%95%D7%AA-%D7%A9%D7%A0%D7%AA%D7%99-%D7%A0%D7%AA%D7%91%D7%A0%D7%92-2019.pdf>. ^ [Back to section](#)

- 3 Annual Report Ben Gurion 2022: www.iaa.gov.il. ^ [Back to section](#)

- 4 Annual Report Ben Gurion Airport 2023 (pgs. 3-4): www.iaa.gov.il. ^ [Back to section](#)

- 5 The Aeronautical Information Publication (AIP) is published by the Civil Aviation Authority of Israel (CAAI) and is prepared in accordance with the Standards and Recommended Practices (SARPs) of Annex 15 to the Convention on International Civil Aviation and the Aeronautical Information Services Manual (ICAO Doc 8126). ^ [Back to section](#)

- 6 Small Claim Leave to Appeal 5621-06-25 *Virnik v. Iberia* (Nevo Database, 10 June 2025). ^ [Back to section](#)

- 7 Small Claim Leave to Appeal 13549-08-25 *Cohen v. Austrian Airlines* (Nevo Database, 11 August 2025). ^ [Back to section](#)

- 8 Civil Appeal 36/84 (Supreme Court) *Teichner v. Air-France, French Air Lines* (6 January 1987); see also Civil File 1818/03 (District Court) *El-Al Israel Airlines Ltd v. David* (7 July 2004). ^ [Back to section](#)

- 9 In a decision dated 15 June 2006, the Israeli government approved the accession of Israel to the Convention and the related Protocol, and authorised the Minister of Foreign Affairs to implement the decision (this has not been done to date). ^ [Back to section](#)

- 10 Section 5(a) of the ATL. ^ [Back to section](#)

- 11 Because domestic flights are relatively cheap, the sums awarded in cases of flight delay or cancellation are low (again modifying the provisions under the ASL for international flights). ^ [Back to section](#)

- 12 As in European Regulation 261/2004, the sum of compensation is dependent on the flight distance. ^ [Back to section](#)

- 13 The relevant provision has been inserted into the Licensing of Air Services Law 1963 by Section 23 of the ASL. ^ [Back to section](#)
- 14 See Leave to Appeal 60392-02-17 *Ukraine International Airlines v. Sharon Zehavi* (6 December 2017). ^ [Back to section](#)
- 15 See Leave to Appeal 50976-02-19 *Anat Sharon v. Aeroflot Russian Airlines* (26 February 2019). ^ [Back to section](#)
- 16 The Israeli District Court in CA 54491-01-15 *Bashan v. EasyJet Airline Company Ltd* decided that the CPL does not apply to foreign airlines with no permanent presence in Israel. An appeal to the Israeli Supreme Court (Civil Appeal 5089/20) was filed and later withdrawn (2 June 2022) on the Court's recommendation. ^ [Back to section](#)
- 17 Civil Further Appeal 5783/14 *Adv. Lior Zemach v. El Al* (12 September 2017). ^ [Back to section](#)
- 18 Chapter 3 of the RER. ^ [Back to section](#)
- 19 Section 2 of the LASL. ^ [Back to section](#)
- 20 Section 374 of the ANR. ^ [Back to section](#)
- 21 *ibid.*, Sections 373 and 375. ^ [Back to section](#)
- 22 Sections 2 and 4 of the ANL. ^ [Back to section](#)
- 23 Sections 13, 21, 52, 74, 87 and 88 of the ANL. ^ [Back to section](#)
- 24 Section 8 of the LASL. ^ [Back to section](#)
- 25 *ibid.*, Section 1. ^ [Back to section](#)
- 26 *ibid.*, Section 2. See also 'Criteria for the approval of foreign air carrier flights that may constitute operating a base in Israel' (AP 1.1.400, Revision 2, Air Operator Certification, issued by the CAAI on 31 July 2025), which states that as of 31 March 2019, operating permits are not granted to foreign air carriers for passenger air services using a method of operation in which the same aircraft is based in Israel continuously and operates flights to multiple (approved) destinations, thus effectively operating as if it were an Israeli air carrier. ^ [Back to section](#)
- 27 Section 5 of the LASL. ^ [Back to section](#)
- 28 ATF 1.1.400A, Commercial specifications of a Foreign Air Carrier applying for an operating permit to and from Israel, Air Transport Handbook. ^ [Back to section](#)

- 29 Directive AT.1.1.400 Granting an Operating Permit for Scheduled Flights to and from the State of Israel. ^ [Back to section](#)
- 30 Security Directives of the MOT Emergency, Security and Cyber Division, 1 February 2025. ^ [Back to section](#)
- 31 Section 8C(a1) of the LASL. ATF 1.1.400C, Commitment to appoint a representative of an Air Carrier at airports, Air Transport Handbook. ^ [Back to section](#)
- 32 ibid., Section 8c(b)(1). ^ [Back to section](#)
- 33 Directive AT.1.1.402 'Granting an Operating Permit for Charter Flights to and from the State of Israel' (Directive AT.1.1.402). ^ [Back to section](#)
- 34 'Definitions' section to Directive AT.1.1.402. ^ [Back to section](#)
- 35 AIP Israel GEN 1.4, Entry, Transit and Departure of Cargo (11 August 2022). ^ [Back to section](#)
- 36 Security Directive 2025 – Security Measures for Foreign Flights Carrying Commercial Cargo and Entering the Israeli FIR. ^ [Back to section](#)
- 37 ibid., Section 1.A. ^ [Back to section](#)
- 38 https://www2023.icao.int/publications/Documents/7300_cons.pdf. ^ [Back to section](#)
- 39 ASOC controls the security procedures for the arrival of aircraft into and passage through Israeli airspace. ^ [Back to section](#)
- 40 Explanatory notes to the ANL Draft, p. 1. ^ [Back to section](#)
- 41 www.eurocontrol.int/about-us. ^ [Back to section](#)
- 42 <https://web.archive.org/web/20160619001131/www.eurocontrol.int/article/s/comprehensive-agreement-states>. ^ [Back to section](#)
- 43 CAAI Directive AW 1.4.103 (2015) Issuance/Renewal/Modification of Certificate of Airworthiness, CAAI Directive AW 1.4.231 (2015) Airworthiness Directives Publication, CAAI Directive AW 1.4.301 (2014) Issuance of Initial Certificate of Airworthiness. ^ [Back to section](#)
- 44 Regulation 127 of the ANR. ^ [Back to section](#)
- 45 Section 1 of the AIAI Legislation. ^ [Back to section](#)
- 46 Section 106 and 138 of the ANL. ^ [Back to section](#)

- 47** Section 107 of the ANL empowers the MOT to appoint a chief investigator to coordinate the investigation of safety-related incidents. [^ Back to section](#)
- 48** Sections 96 and 114 of the ANL. [^ Back to section](#)
- 49** CAAI Directives GEN 4.0.500 (2014) Report on Safety-Related Incident – Receipt and Handling. [^ Back to section](#)
- 50** Draft Bill for the Authority of Civil Safety Investigation 5783-2023, HH (Gov.) 1630 1100, https://fs.knesset.gov.il/25/law/25_Is1_2658621.pdf. [^ Back to section](#)
- 51** Regulations 2-3 and 6 of the ARCI. [^ Back to section](#)
- 52** Regulation 5 of the ARCI. [^ Back to section](#)
- 53** Regulation 2-4 of the ARCI. [^ Back to section](#)
- 54** Regulation 12 of the ARCI. [^ Back to section](#)
- 55** Regulation (EC) No. 785/2004 (as amended by Regulation (EU) No. 285/2010 and Commission Delegated Regulation (EU) 2020/1118). [^ Back to section](#)
- 56** As amended from time to time. [^ Back to section](#)
- 57** Officially known as the Air Transport Agreement between the Government of the State of Israel and the Government of the United States of America. [^ Back to section](#)
- 58** Officially known as the Euro-Mediterranean Aviation Agreement. [^ Back to section](#)
- 59** Restrictive Trade Practices Rules (Block Exemption for Arrangements between Air Carriers Concerning Marketing Flight Capacity to Destinations Covered by Open Skies Agreement) (Temporary Order) 2012. This block exemption was valid until 9 November 2022. [^ Back to section](#)
- 60** Restrictive Trade Practices Rules (Block Exemption for Arrangements between Air Carriers) (No. 2), 2013 (Block Exemption Rules 2013). This block exemption was valid until 1 December 2023. [^ Back to section](#)
- 61** Notice of the Commissioner of the Competition Authority's intention not to extend the Block Exemption for Arrangements between Air Carriers Concerning Marketing Flight Capacity to Destinations Covered by the Open Skies Agreement (Temporary Order) 2012: www.gov.il/he/Departments/news/interncarriageair. [^ Back to section](#)
- 62** Section 7a of the Air Carrier Block Exemption. [^ Back to section](#)
- 63** Section 47 of the Competition Law. [^ Back to section](#)

- 64 CA 10538-02-13 *Hatzlaha For Promoting a Fair Society (R.A.) v. El-Al Israeli Airlines et al* (19 January 2020). [^ Back to section](#)
- 65 CA 3183/20 *Lufthansa et al v. Hatzlaha Foundation* (18 May 2020). [^ Back to section](#)
- 66 Section 19 of the Competition Law. [^ Back to section](#)
- 67 Section 21(a) of the Competition Law. [^ Back to section](#)
- 68 The Air Transport Law 1980. [^ Back to section](#)
- 69 Article 21(1) of the Montreal Convention. [^ Back to section](#)
- 70 Article 21(2) of the Montreal Convention. [^ Back to section](#)
- 71 Section 13 of the ATL. [^ Back to section](#)
- 72 Section 14 of the ATL. [^ Back to section](#)
- 73 The Israeli Class Action Law 2006 provides a specific mechanism for the approval of a settlement in a class action. The mechanism is not sector-specific and applies to any class action, including those in the aviation sector. [^ Back to section](#)
- 74 Civil Procedure Regulations 2018 (the New Regulations), which replaced the Israeli Civil Procedure Regulations 1984. [^ Back to section](#)
- 75 Regulations 34–35 of the New Regulations. [^ Back to section](#)
- 76 Except for claims for compensation due to bodily injuries, or claims based on the Compensation for Road Accident Victims Law 1975. [^ Back to section](#)
- 77 Regulation 37k and the Second Addendum of the New Regulations. [^ Back to section](#)
- 78 Section 15 of the ATL and Article 35 of the Montreal Convention. [^ Back to section](#)
- 79 The Aviation Services Law (Compensation and Assistance for Flight Cancellation or Change of Conditions) 2012. [^ Back to section](#)
- 80 Section 19 of the ASL. [^ Back to section](#)
- 81 See Civil File 2474/86 *Nezer v. Kanfonit* (1994). [^ Back to section](#)
- 82 Sections 11 and 84 of the Civil Wrongs Ordinance (New Version). The allocation of liability between wrongdoers *inter se* may be the subject of a contract between them (e.g., a contract whereby one party undertakes to indemnify and hold another harmless). [^ Back to section](#)

- 83 See, for example, Articles 21 and 22 of the Montreal Convention, as incorporated into Israeli law under Section 6 of the ATL. [^ Back to section](#)
- 84 Sections 1 and 2 of the LDPL. Section 4 of the LDPL lists a number of defences available to a manufacturer such as that arising if the manufacturer can prove that the defect that caused the damage manifested itself after the product had left the manufacturer's control, and provided that the product had undergone reasonable safety inspections. [^ Back to section](#)
- 85 Equivalent to Article 17(1) of the Montreal Convention. [^ Back to section](#)
- 86 Civ App 20/83 *Solomon Dadon v. Air France French Air Lines Ltd* (22 October 1984). [^ Back to section](#)
- 87 Leave to Appeal (Tel Aviv) 23465-07-17 *Iberia Airlines v. Flaisher-Peled et al* (20 November 2019). [^ Back to section](#)
- 88 Leave to Appeal 8456/19 *Iberia Airlines v. Flaisher-Peled* before the Supreme Court. [^ Back to section](#)
- 89 Section 11 of the ASL. [^ Back to section](#)
- 90 CA 2767-08-16 *Vaknin v. El Al Israel Airlines Ltd.* (16 March 2023; Sections 58–68); see also CF (Tel-Aviv) 7262-10-18 *Haziza el al v. Arkia Israeli Airlines* (10 January 2021), paragraph 12. [^ Back to section](#)
- 91 CA 44555-03-19 *Dahan v. Israil Company Ltd* (27 May 2020), paragraph 34; in CA 50259-07-19 *Shalom Itzhak Zoarez v. Israil aviation and Truism Ltd* (20 December 2020), paragraph 23; and in CA 59220-11-16 *Gelbert v. Arkia Israeli Airlines* (22 December 2021), paragraph 113. [^ Back to section](#)
- 92 Mainly, the Aviation Regulations (Operation of Aircraft and Flight Rules) 1981. [^ Back to section](#)
- 93 'Drones briefly halt Ben Gurion flights' (*Times of Israel*, 2 February 2019), available at www.timesofisrael.com/jets-scrambled-after-civilian-plane-flies-over-sderot-without-coordination/. [^ Back to section](#)
- 94 Aviation Regulations (Operation of a Small Drone), 2024, and Aviation Regulations (Operation of a Model Airplane), 2024. On 31 March 2025, the CAAI published a proposed amendment to the the latter regulation, aiming to implement the amendment made in the Aviation Regulations (Operation of Aircraft and Rules of Flight), 1981, during 2025. [^ Back to section](#)
- 95 14 CFR Section 107 – Small Unmanned Aircraft: https://ecfr.io/Title-14/cfr107_main-. [^ Back to section](#)

- 96 Explanatory notes to the Draft Regulations, pp. 36–37. [^] [Back to section](#)
- 97 Agenda of the Economic Committee, Knesset:
<https://main.knesset.gov.il/Activity/committees/Pages/AllCommitteesAgenda.aspx?Tab=3&ItemID=2217365>. [^] [Back to section](#)
- 98 Liran Antebi and Matan Yanko-Avikasis, 'Life and Death in the Hands of the Drone: The Small, Cheap Devices Early in the Swords of Iron War' (INSS, 26 October 2023): <https://www.inss.org.il/wp-content/uploads/2023/10/No.-1772.pdf>. [^] [Back to section](#)
- 99 The Aviation Regulations (Temporary Order - Iron Swords) (Remote Identification of Drones), 5783-2023: www.gov.il.
[^] [Back to section](#)
- 100 Air Navigation Regulations (Reporting, Analysis and Tracking of Incidents in Civil Aviation) Draft, p. 1. [^] [Back to section](#)
- 101 Except near to and during the air attack carried out by Iran from its territory and the territory of other countries against Israel on the night between 13 and 14 April 2024, which included 110-130 ballistic missiles, about 185 UAVs and 36 cruise missiles. IDF Spokesman, 14 April 2024: www.idf.il; CBS, 16 April 2024, 'What Iran launched at Israel in its unprecedented attack, and what made it through the air defenses': <https://www.cbsnews.com/news/iran-israel-attack-what-weapons-launched-how-air-defenses-worked/>. [^] [Back to section](#)
- 102 <https://www.mako.co.il/travel-news/israel/Article-869a98e55368c81027.htm>. [^] [Back to section](#)
- 103 *Aviation News*, 1 May 2024, 'The airlines that are (not) returning to Israel in the meantime' (by Noam Rosen): <https://aviationnews.co.il>. [^] [Back to section](#)
- 104 *Globes*, 2-3 May 2024, 'Tender for future transport in Tel Aviv: where will the helicopters land in the Tel Aviv area' (by Anat Daniely-Lev): <https://www.globes.co.il/news/article.aspx?did=1001477672>. [^] [Back to section](#)



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Italy

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Introduction

Italy's civil aviation sector is well-regulated and harmonised with European Union regulations, promoting competition within the EU Single Market. Governed primarily by the Italian Navigation Code (INC) and overseen by the Italian Civil Aviation Authority (ENAC), the aviation sector allows free market access within the EU, while access for non-EU countries is managed through bilateral agreements. Airport slots are regulated by EU laws, ensuring fair and transparent allocation. The sector adheres to EU guidelines on state aid and labour regulations, with the following playing key regulatory roles in maintaining safety and competition:

1. ENAC;
2. Assoclearance (slot allocation);
3. air traffic control (ENAV);
4. the Italian Transport Authority (ART); and
5. the National Agency for the Safety of Flight (ANSV).

Market access and liberalisation

As an EU member, Italy's civil aviation market is largely liberalised, allowing for free access within the EU Single Market. This means that both domestic and international airlines from other EU countries can operate in Italy without significant barriers, promoting competition and efficiency.

Third-country access

For non-EU countries, market access is governed by bilateral air service agreements. These agreements stipulate terms such as traffic rights, frequencies, destinations, and capacity.

Regulation of slots

Airport slots in Italy are regulated by the European Union Slot Regulation (Council Regulation (EEC) No. 95/1993, as amended by EC Regulation No. 793/2024 and EC Regulation No. 545/2009). This regulation ensures that access to airport slots is fair, transparent and non-discriminatory, protecting the rights of operators and allowing the free exchange and use of slots. At congested airports, slots are allocated by Assoclearance (see 'Civil aviation regulatory regime, regulators and powers' below) in accordance with Articles 6, 8, 9 and 10 of Regulation (EEC) No. 95/1993.

International treaties and traffic rights

As a member of the EU, Italy is a party to the EU's international aviation agreements and has numerous bilateral air service agreements with third countries. These agreements define air traffic rights, such as frequencies, destinations and capacity. Italy is a signatory of, and

has ratified, the main international conventions and treaties concerning air transport. Italy has also signed, but not yet ratified, the Convention on International Interests in Mobile Equipment (the Cape Town Convention).

Government policy and state aid

Government policies in the Italian aviation sector are aligned with EU regulations, ensuring consistency in market operations and adherence to competition laws. State aid is governed by EU regulations and guidelines, with strict controls to avoid market distortion. Specifically, the Italian aviation sector is subject to the general state aid regulations outlined in the Treaty on the Functioning of the European Union. In Italy, competition laws are implemented by the Italian Competition Authority.

Labour and employment issues

The aviation industry in Italy is governed by a combination of Italian labour laws and EU regulations. The sector is highly unionised, with regular negotiations between unions and employers. Aviation personnel are classified into flight crew and non-flight crew under Article 731 of the Italian Navigation Code. The definitions of 'flight crew' and 'non-flight crew' can be found respectively under Articles 732 and 733.

Civil aviation regulatory regime, regulators and powers

The primary regulator for civil aviation in Italy is ENAC, as provided by Article 687 of Italian Navigation Code and Legislative Decree No. 250/1997. ENAC oversees technical regulation, certification, supervision and control in the civil aviation sector. It enforces EU regulations on passenger rights and airport services, ensures flight and passenger safety and represents Italy in global aviation organisations. The Ministry of Transport is the body with supervisory authority over ENAC and an eye on general competence.

Other bodies regulating aviation in Italy are Assoclearance and ENAV which are the entities with delegated authority in the field of, respectively, slot allocation and air traffic control, and ART, an independent administrative body whose main task is promoting and protecting competition in the transport sectors (see 'Establishing liability and settlement', below). Finally, ANSV is the agency in charge of investigating aviation accidents and incidents to enhance flight safety (see 'Safety', below).

Wrongful death claims

In the context of wrongful death claims in Italy, compensation includes both material and non-material damages. In particular, non-material damages can be categorised into several types, such as loss of dependency, which covers the financial support the deceased would have provided; pain and suffering, which accounts for the distress experienced by the deceased before death; and moral damages, which address the emotional suffering of the relatives. Awards for dependency damages can vary widely based on the specifics of the case, including the extent of suffering and the relationship between the claimant and the deceased. These are circumstances that are typically evaluated at the Court's discretion. To reduce this discretion and ensure a more consistent and standardised

process, Italian courts have introduced tables to provide compensation ranges based on the claimant's relationship to the deceased, considering factors such as the intensity of the familial bond, cohabitation, age and family size. One of the most widely used is the table published by the Court of Milan. The Milan tables are a key tool in Italy for quantifying non-material damages, including those arising from wrongful death.

Systems for voluntary reporting of incidents

The voluntary reporting system complies with EU Regulation No. 376/2014, which mandates two reporting systems for safety enhancement: mandatory occurrence reporting (MOR) and voluntary occurrence reporting (VOR), overseen by ANSV. From 1 January 2022, MOR and VOR reports must be submitted using the informatics platform ECCAIRS 2 (E2), designed by the European Union Aviation Safety Agency (EASA) to meet the requirements of EU Regulation No. 376/2014.

This system ensures that reports are used exclusively for safety improvements and not for punitive actions, maintaining the confidentiality of reporters to enhance aviation safety. See also 'Voluntary reporting', below.

Year in review

In the past year, Italy's aviation sector has experienced significant recovery and development, driven by sustainability initiatives, regulatory reforms and strategic investments in cybersecurity and space exploration. These efforts are positioning Italy as a leader in the evolving landscape of global aviation.

Notably, through ENAC, Italy is implementing the National Recovery and Resilience Plan, with a focus on the aviation sector's digitalisation and sustainability. Key measures include enhancing air traffic management, reducing greenhouse gas emissions and promoting the use of sustainable aviation fuels. The new National Airport Plan sets ambitious targets, aiming for a 2 per cent annual improvement in fuel efficiency and maintaining 2020-level CO2 emissions.

In collaboration with the National Agency for New Technologies, Energy and Sustainable Economic Development, ENAC has initiated projects to advance the use of sustainable aviation fuels (SAFs) and hydrogen. These initiatives are pivotal in transitioning towards a greener aviation industry.

Additionally, the Suborbital and Access to Space Operations regulation, issued by ENAC, provides comprehensive guidelines for safe suborbital missions, including safety measures, risk assessments and emergency response plans. This regulation supports the growth of space tourism and the commercial use of orbital and suborbital flights, marking a significant step in Italy's space sector.

The digitisation of the aviation industry has raised cybersecurity concerns. In response, Italy is implementing comprehensive cybersecurity measures, including staff training, regular risk assessments and real-time information-sharing through the Italian Airports Information Sharing Analysis Centre project.

The ongoing efforts in sustainability, digitalisation and space exploration indicate a strategic direction that may attract future investments and partnerships, both domestically and internationally.

The jurisprudence of the Italian Court of Cassation has played a significant role in interpreting regulations that protect air passengers, closely following the rulings of the Court of Justice of the European Union. This ensures that Italian law is aligned with European standards, offering robust protection to passengers and maintaining high regulatory compliance within the aviation sector.

The most important recent merger is still ongoing and involves the Italian State carrier (ITA Airways) and Lufthansa, deeply scrutinised by the EU Commission, which imposed important restrictions on the routes considered as potentially affected by the merger.

Legal framework for liability

Italy is a signatory to several multilateral agreements that regulate international air transport, focusing on liability, safety and regulatory standards.

The key milestone Treaty is the Chicago Convention, signed on 7 December 1944 and ratified by Italy in 1946. This Convention was pivotal in establishing the International Civil Aviation Organization (ICAO) and in formalising agreements on civil aircraft navigation. Notably, the technical annexes of the Convention provide detailed and technical-legal regulations for the commercial air transport industry.

Another important multilateral agreement is the Hague Protocol, signed in 1955, which amends the Warsaw Convention to enhance liability limits and passenger protection.

Before reaching the Montreal Convention, an important step was the Tokyo Convention of 1963, which was ratified by Italy in 1976. This text established a series of powers for the aircraft commander. Specifically, among the various measures, it introduced the provision that the commander has the authority to take all necessary actions, including coercive measures, to ensure the safety of passengers.

Finally, the Montreal Convention modernises and overcomes the Warsaw Convention and its amendments, providing a uniform legal framework for liability in international air transport. Italy ratified the Montreal Convention on 28 June 2004.

Internal and other non-convention carriage

The liability of air carriers for death or injury to passengers, for loss or damage to goods or baggage and delays in international transport is governed by the Montreal Convention. This Convention has been ratified by the EU and thus incorporated into the EU legal system and consequently became applicable to Italian internal carriage. After the Convention's entry into force, the European Parliament and Council introduced Regulation (EC) No. 889/2002, which is based on the above-mentioned Convention, aligning European regulations with the Montreal Convention's provisions. This Regulation expanded the scope of the Convention's rules concerning the carriage of passengers, baggage and cargo. Consequently, the Italian

Navigation Code, the Italian law that governs aviation matters, has been amended to mirror both international and EU standards.

Articles 941–954 of the Code govern aviation matters, but Articles 941 and 951 specifically state that 'the carriage of people and baggage by air, including the carrier's liability for passenger's injuries is governed by the Community and international laws in force in Italy.'

Therefore, while domestic carriage is regulated by the Italian Navigation Code, the Code reflects the provisions of the Montreal Convention, meaning domestic carriage is indirectly governed by the Convention.

General aviation regulation

The details of general aviation regulation can be found above. The liability rules applicable to helicopters and microlights are similar to those for other civil aircraft.

Passenger rights

While the core framework for passenger rights is shaped by European Union regulations, these rights are implemented and supported within the Italian legal system through specific national laws and regulations. These provisions not only ensure compliance with EU standards but also provide additional protections for passengers. A key national legislative element is Legislative Decree No. 206/2005, known as the Italian Consumer Code, which consolidates various consumer protection provisions. The Italian Consumer Code establishes mechanisms for complaint handling and redress, including access to mediation and alternative dispute resolution. It consolidates all current consumer protection regulations with the goal of strengthening consumer and user protection. It seeks to enhance consumers legal position by promoting awareness of their rights and interests, simplifying contractual relationships between businesses and consumers and fostering the improvement of fundamental business practices in the market for the benefit of both consumers and companies.

The Italian legal system offers multiple methods for enforcing these rights, including direct complaints to ENAC, judicial recourse and the imposition of fines and other sanctions by ENAC for non-compliance. ENAC is also responsible for enforcing Regulation 1107/2006, which ensures that passengers with disabilities or reduced mobility (PRM) receive the necessary assistance at no additional cost. Specifically, this Regulation applies to 'any persons whose mobility when using transport is reduced due to any physical disability, intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaption to his or her particular needs of the service made available to all passengers'. It mandates that passengers with reduced mobility receive continuous assistance tailored to their specific needs, from the moment they arrive at the airport to their departure from the destination airport. (Article 7).

Through Ministerial Decree No. 107/T of 24 July 2007, ENAC developed guidelines (ENAC Circular GEN02A) in collaboration with associations representing people with disabilities and reduced mobility, as well as industry operators, to implement this regulation.

In addition, ENAC has published the Passenger Rights Charter, a reference document that summarises the main rights of passengers and the protections offered in air transport, providing a practical guide to addressing potential issues during travel.

Furthermore, the Italian Tourism Code (Legislative Decree No. 79/2011) supplements the specific protections for passengers by promoting transparency and fairness in tourism services, including air transport. The Tourism Code further strengthens the guarantees provided by the Consumer Code, offering comprehensive protection for travellers.

Other legislation

Law No. 287/1990, which regulates anti-competitive practices such as cartels and abuse of dominant positions, is enforced by the Italian Competition Authority (AGCM) and applies to aviation operators to ensure fair competition. Legislative Decree No. 231/2001 establishes corporate liability for crimes, including corruption. Companies can be held liable for corrupt practices, facing fines, sanctions and disqualification from public contracts. Product liability, governed by the Consumer Code (Legislative Decree No. 206/2005 – see above), holds manufacturers and suppliers accountable for damages from defective products, including aircraft parts and safety equipment.

Environmental Law (Legislative Decree No. 152/2006) regulates environmental protection in aviation, covering waste management, emissions and pollution, requiring aviation companies to mitigate environmental impacts and manage damage. See also 'Competition', below.

Licensing of operations

Licensed activities

Under Regulation (EC) No. 1008/2008, airlines must hold both an operating licence and an air operator's certificate (AOC) to provide international and domestic flights. In Italy, ENAC is responsible for issuing AOCs and ensuring that operators comply with safety and professional standards. ENAC sets the rules for the issuance, renewal and modification of AOCs. Additionally, ENAC grants air carrier licences in Italy based on Regulation (EC) No. 1008/2008, which requires carriers to demonstrate compliance with administrative, financial and insurance standards, as well as to have access to suitable aircraft.

ENAC also oversees the ongoing compliance of licensed carriers by conducting checks annually and biennially. It has the authority to suspend or revoke licences if carriers fail to meet regulatory requirements.

Ownership rules

The operating licence for airlines is issued by ENAC under Articles 778 and 779 of the INC and according to Regulation (EC) No. 1008/2008. The licence is granted to enterprises established in Italy, where the effective control is held directly or through

majority ownership by a Member State of the European Union or by citizens of EU Member States. According to Article 778 of the Italian Navigation Code, air carriers must:

1. be enterprises located in Italy whose effective control is owned and must continue to be owned directly or through majority ownership by Member States or nationals of Member States;
2. have, as their main objective, air transport in isolation or combined with any other commercial operation of aircraft or the repair and maintenance of aircraft;
3. own a valid certificate of airworthiness issued by ENAC and own or lease (dry lease) one or more aircraft, as provided by Article 4.0 of Circular EAL-16A issued by ENAC on 23 December 2015; and
4. provide satisfactory evidence of administrative, financial and insurance requirements, as provided by Regulation (EC) No. 1008/2008 and Regulation (EC) No. 785/2004.

In particular, on 23 December 2015, ENAC issued Circular EAL-16A, which governs in detail the requirements for financial and administrative fitness. Attached to this circular are, *inter alia*, the forms for business plans and cash flow. Moreover, on 21 December 2011, ENAC issued Circular EAL-17-A, implementing Regulation (EC) No. 785/2004 on insurance requirements for air carriers and aircraft operators.

Foreign carriers

Foreign air carriers willing to operate commercial flights to and from Italian airports are subject to different provisions, depending on whether they are European or otherwise extra-EU based. Indeed, there are no restrictions for EU carriers, provided that they obtain slots allocations from Assoclearance in advance of their intended flight operations. Domestic cabotage is also permitted, in compliance with the requirements set out by Regulation (EC) No. 1008/2008. Licensed EU carriers are also entitled to apply to ENAC for designation on extra-EU routes to and from Italy (i.e., traffic rights under international air transport agreements signed by the Italian government) provided that they hold a permanent establishment within the Italian territory pursuant to Article 7 of ENAC Circular EAL-14B.

On the contrary, extra-EU carriers are authorised to fly to and from Italy when they are designated by the state of origin holding traffic rights granted by Italy under bilateral or multilateral air services agreements. If no air service agreement is in force between Italy and a foreign state, the flight schedule can be authorised only upon prior request from the civil aviation authority of the operator's state of origin to ENAC. However, under certain 'open skies' regimes, extra-EU airlines are permitted to fly without restrictions to and from Europe, always subject to slot allocation.

Safety

Safety requirements are established by EASA. The responsibility for conducting safety investigations falls on ANSV, which acts as the civil aviation safety investigation authority

in Italy, as per Legislative Decree No. 66/1999 and pursuant to Articles 826–832 of the INC.

ANSV operates in accordance with international law, specifically Annex 13 to the Convention on International Civil Aviation (ICAO Annex 13) and European Union law, namely EU Regulation No. 996/2010 and EU Regulation No. 376/2014. These regulations adopt many of the principles and provisions of ICAO Annex 13.

When a serious accident or incident involving a civil aircraft is reported, ANSV initiates a safety investigation under Article 5 of Regulation (EU) No. 996/2010 as amended by Regulation (EU) No. 376/2014. The definitions of serious accidents and incidents are outlined in Article 2 of Regulation (EU) No. 996/2010 and Chapter I 'Definitions' of ICAO Annex 13.

According to Legislative Decree No. 66/1999, any investigation of an accident or incidents shall be the subject of a report in a form appropriate to the type and seriousness of the accident. The investigation process is led by an 'investigator in charge', who is responsible for organising, conducting and overseeing the investigation. Depending on the severity and complexity of the incident, additional investigators may assist the investigator, forming an investigative team.

If a serious accident or incident occurs abroad involving an aircraft of Italian interest (such as a civil aircraft registered in Italy, manufactured by an Italian company or operated by an Italian airline), an ANSV investigator may be designated as an 'accredited representative' in the foreign investigation. According to the relevant legislation, the accredited representative has the right to participate in key stages of the investigation and to review the main evidence collected.

Insurance

Airlines and aircraft operators shall be insured in accordance with Regulation (EC) No. 785/2004 (as amended by Regulation (EU) No. 285/2010).

Under EU Regulation (EC) No. 785/2004, the minimum insurance cover per accident is determined based on the maximum take-off weight of the aircraft. This takes into consideration that the potential damage on the ground increases as the weight of the aircraft grows. For instance, an aircraft between 50 and 200 tonnes shall be insured for €366 million and aircraft over 500 tonnes shall be insured for €854 million.^[1]

The insurance requirements apply to operators regardless of whether the aircraft is on a national or foreign register, as long as the operator is conducting flights within the EU or from an EU Member State. This ensures that both domestic and foreign operators are adequately insured when operating in EU airspace.

This Regulation does not apply to:

1. state aircraft as referred to in Article 3(b) of the Convention of Chicago;
2. model aircraft with a maximum take-off mass of less than 20 kg;
3. foot-launched flying machines; and

4. captive balloons.

Competition

The general regulatory framework on the competition of undertakings (including airlines) is provided by Italian law No. 287/1990 (the Italian Competition Law), which adopted the general principles established by the treaties and legislation of the European Union. The AGCM is the administrative body in charge of implementing the regime and the oversight of compliance within the market. This Law establishes rules to prevent anticompetitive practices, such as agreements among operators that restrict competition. In the Italian civil aviation sector, some anti-competitive practices may include:

1. abuse of dominant position: an operator holding a dominant position may hinder other operators' access to the market or impose unfavourable conditions;
2. predatory pricing: an operator may unsustainably lower prices to eliminate competition and then raise them once other operators are out of the market;
3. sharing of sensitive information: secret agreements among operators to share sensitive information about prices, routes, or other business strategies can harm competition;
4. exclusivity in contracts: agreements that exclude other operators or limit their ability to operate in specific areas or routes can be anticompetitive; and
5. tariff discrimination: practices that discriminate against some operators compared to others in terms of tariffs or access to airport infrastructure.

Cooperation agreements among operators in the civil aviation sector are evaluated in light of antitrust laws. The goal is to avoid anticompetitive practices and ensure fair competition. If such agreements limit competition, they may be considered anticompetitive and sanctioned pursuant to Article 15 *bis* of Law No. 287/1990. The AGCM assesses agreements on a case-by-case basis, considering factors such as the scope of the agreement, its impact on competition and its economic reasonableness. If an agreement is deemed anticompetitive, financial penalties may be applied to the parties involved.

Wrongful death

See 'Introduction'.

Establishing liability and settlement

In Italy, claims for damages in civil aviation cases fall under the jurisdiction of the civil courts and the related proceedings are governed by the Italian Code of Civil Procedure.

Serious accidents, resulting in death, often trigger criminal investigations and subsequent trials, falling under the jurisdiction of the criminal courts and the related proceedings, are governed by the Code of Criminal Procedure. In this case, injured parties can seek compensation through criminal proceedings.

Court proceedings, which have three possible levels of jurisdiction, are time-consuming. A first-instance judgment (subject to appeal) usually takes no less than three years.

Small aviation claims, such as Regulation 261^[2] claims fall under the jurisdiction of the lowest level of jurisdiction (justice of the peace) and can be resolved through alternative dispute resolution (ADR) mechanisms as they are more efficient and cost-effective than traditional litigation. The main ADR methods include mediation (introduced by Legislative Decree No. 28/2010), assisted negotiation (introduced by Legislative Decree No. 132/2014 converted into Law No. 162/2014) and the Conciliaweb platform of the ART.

In particular, the mediation procedure involves a neutral mediator helping the parties reach a voluntary settlement, which is particularly encouraged by Italian law for consumer disputes, including civil aviation disputes. Mediation is valued for its confidentiality, preservation of business relationships and quicker resolution, typically within a few weeks to a few months. Assisted negotiation involves lawyers from each party engaging in structured discussions to resolve disputes outside of court. This method is less formal and often faster than litigation, usually resolving the matter within a few weeks to several months, depending on the case complexity. The ART platform 'Conciliaweb' offers an online dispute resolution system for passenger and carrier disputes, such as flight delays and cancellations. This platform aims to resolve disputes within 90 days from claim submission, providing an efficient and consumer-friendly process.

Limitation periods for aviation claims in Italy vary depending on the contractual relationship between the air carrier and the third party. According to Article 35 of the Montreal Convention, there is a two-year time limit for filing an action against an air carrier for injury or death. Specifically, Italian courts interpret the above-mentioned article in conjunction with Article 949 of the Italian Navigation Code, enforcing the two-year time limit as a forfeiture period. Baggage claims under the Montreal Convention also have a two-year limitation. General contractual claims in Italy typically have a 10-year limitation period unless specified otherwise by law.

Parties that can be involved in compensation actions include carriers, aircraft owners, pilots and manufacturers. Carriers are the primary defendants in most passenger claims, while owners can be joined if maintenance or ownership issues arise. Pilots are usually not directly sued but can be implicated. Manufacturers can be involved in cases of product liability.

Liability can be joint and several, meaning each party can be responsible for the full amount of damages, or proportional, based on each party's degree of fault.

Carriers' liability towards passengers and third parties

Operators' liability to passengers and third parties in aviation is primarily governed by the Montreal Convention of 1999 and EU Regulation No. 261/2004. These frameworks establish clear guidelines for how airlines must handle various incidents, balancing passenger rights with operational feasibility for carriers.

Under the Montreal Convention, airlines have strict liability for personal injury and death up to 113.100 Special Drawing Rights (SDRs).^[3] Beyond this amount, the airline must prove that the damage was not due to its negligence to avoid further liability. In the case of delays, the liability per passenger is limited to 4.694 SDRs, ensuring compensation without excessive burden on airlines. Baggage damage claims are capped at 1.131 SDRs per passenger, while cargo damage is limited to 19 SDRs per kilogram.

EU Regulation No. 261/2004 complements this by addressing specific passenger rights. In cases of denied boarding, cancellation and delay, passengers are entitled to compensation ranging from €250 to €600, depending on the flight distance. Airlines are exempted from paying compensation if they can prove exceptional circumstances or have given adequate notice.

Liability in aviation extends to third parties, covering damage caused on the ground by aircraft operations. This includes damage to property and injury to individuals resulting from incidents such as aircraft crashes or debris. The Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface (Rome Convention of 1952) addresses such liabilities, establishing that operators are liable for damage caused by their aircraft on the surface, subject to specific limits. See also 'Legal framework for liability', above.

Liability in aviation is primarily civil, focusing on compensating passengers and third parties for losses and damages. However, airlines may also face administrative penalties for non-compliance with regulatory requirements, particularly under EU regulations. Overall, these frameworks aim to ensure the fair treatment of passengers and third parties while maintaining practical limits on airline liability.

Product liability

Aircraft and component manufacturers are subject to product liability, specifically under the provisions of the Italian Civil Code. If a defect in an aircraft or component causes an accident, the manufacturer can be held liable for damages. Owners and operators have a duty of care to passengers. They are liable for damages resulting from accidents occurring on board the aircraft or during embarkation and disembarkation, as provided in the Montreal Convention and the Navigation Code. In particular, Articles 799–814 of the Italian Navigation Code focus on air transportation and cover such aspects as carrier liability, obligations to passengers and compensation conditions.

Compensation

Compensable losses or damages in aviation typically include both pecuniary and non-pecuniary damages. These can cover a range of aspects, including:

1. bodily injury and death: compensation is provided for physical injuries or death resulting from an aviation accident. This includes medical expenses, loss of income and in cases of death, compensation to the family for loss of financial support and companionship;
2. emotional and psychological damages: non-pecuniary damages may include compensation for pain and suffering, emotional distress and loss of quality of life (see also 'Introduction', above);

3. property damage: compensation for loss or damage to personal belongings and baggage (see above); and
4. delay and cancellations: compensation for significant delays and cancellations as stipulated by EU Regulation No. 261/2024, which includes monetary compensation and additional services namely meals, accommodations, and alternative transport.

Recent trends in awards have increasingly recognised claims related to environmental impact, particularly involving greenwashing. Airlines that mislead consumers about their environmental practices, such as overstating the sustainability of their operations or carbon offset programmes, have faced legal repercussions. Courts are beginning to award higher damages in such cases, reflecting the growing importance of environmental integrity and consumer protection in the industry. This trend underscores the legal risks associated with deceptive environmental claims in aviation.

In general, the national healthcare system provides medical care to all individuals who have suffered injuries.

However, for certain categories of individuals, such as public and private sector employees and specific categories of professionals, there is a state-funded social security and medical support system for those incapacitated due to accidents, managed by the national institute for social security. In addition, the national institute for insurance against accidents at work (INAIL) handles the insurance system funded by contributions paid by employers and thus safeguards workers in the instance of accidents, death in the workplace and occupational disease.

Pursuant to Articles 10 and 11 of Presidential Decree No. 1124/1965, if civil liability is determined, after the benefit has been disbursed to the injured worker, the state has the authority to initiate recourse actions not only against the employer but also against those responsible or jointly responsible for the accident.

In addition, Article 935 of the Italian Navigation Code requires aviation personnel to be insured against occupational accidents, supporting these legislative provisions.

Survivor benefits, including pensions for spouses and dependent children, are provided in the event of a worker's death due to a workplace accident. INAIL offers medical and psychological support to families coping with trauma, along with financial compensation and ongoing pensions. Rehabilitation services are also available to help families adjust. Legal assistance is provided to ensure proper claims and compensation. Law No. 296/2006 established the Support Fund for Families of Victims of Serious Workplace Accidents, providing additional assistance to families of workers who suffer from severe or fatal workplace accidents.

Drones

The most relevant regulations about drones are Regulation (EU) No. 2018/1139, Commission Implementing Regulation (EU) No. 2019/947 and Commission Delegated Regulation (EU) No. 2019/945. These regulations define a harmonised regulatory

framework for drone management, and also has the aim of ensuring safety and efficiency in civil aviation.

In Italy, ENAC has put in place a detailed framework to ensure that drones are operated safely, particularly when sharing airspace with traditional aircraft. This framework is part of a broader effort to integrate drones into controlled and uncontrolled airspace in a manner that minimises risks.

The core regulations include the Regulation on Remotely Piloted Aerial Vehicles, issued in January 2021, alongside various other guidelines and circulars that specify the rules for operating drones, the categories of drones and the qualifications required for pilots.

Over time, European regulations, EASA guidelines and detailed regulations published by ENAC have introduced specific measures to mitigate the risks associated with unauthorised drone incursions, particularly in airport areas and near aircraft in flight.

Drones, especially those operating beyond visual line of sight, must maintain a minimum safe distance from airports and sensitive areas. ENAC, in collaboration with ENAV, has implemented unmanned traffic management systems to monitor and control drone flights, ensuring they do not interfere with traditional aircraft. Drones must be registered on the D-flight platform (managed by D-Flight SpA, a company partly owned by ENAV) and each drone is assigned a QR code that must be displayed on the aircraft. This system helps in identifying and tracking drones, enhancing safety and accountability.

Drones are prohibited from operating near airports (within 5 km) without specific authorisation and must adhere to designated or restricted geographical zones, as outlined in Circular ATM-09A of 24 March 2021.

Voluntary reporting

In Italy, both ANSV and ENAC play a key role in managing voluntary and mandatory reporting systems aimed at enhancing aviation safety. ANSV oversees the national voluntary reporting system under Regulation (EU) No. 996/2010 as amended by Regulation (EU) No. 376/2014, encouraging the reporting of aviation safety incidents to improve safety through comprehensive data analysis, and ENAC manages the mandatory reporting system and collaborates with ANSV to implement these regulations, utilising the ECCAIRS 2 (E2) platform for managing voluntary reports (see also 'Introduction', above).

Reports are anonymised to protect the identity of the informant. This confidentiality protects reporters from having their submissions used against them in legal proceedings, aligning with the 'just culture' principles that prioritise safety over punitive measures. Whistle-blower protection is robust, with regulations ensuring that those who report safety concerns are not penalised unless there is clear evidence of gross negligence or intentional misconduct. Overall, the collaborative efforts of ANSV and ENAC and their commitment to 'just culture' principles contribute significantly to improving aviation safety in Italy while protecting those who report safety concerns.

Outlook and conclusions

Italy's aviation sector is poised for significant developments driven by sustainability goals, infrastructure investments and technological advancements. These changes will enhance the sector's competitiveness, efficiency and environmental responsibility, positioning Italy as a key player in the global aviation landscape.

In particular, Italy is moving on several fronts to enable broader development of the aviation industry, as detailed below.

1. **Sustainability and the European Green Deal:** Italy is aligning with the European Green Deal's objectives, aiming to reduce carbon emissions in the aviation sector. This includes promoting the use of SAFs and investing in greener technologies.
2. **Infrastructure investments:** significant investments in airport infrastructure are expected, focusing on expanding capacity, modernising facilities and enhancing connectivity. These improvements are designed to support increased traffic and improve the overall passenger experience.
3. **Urban air mobility:** Italy is exploring the potential of urban air mobility solutions such as drone taxis and cargo drones. Regulatory frameworks are being developed to ensure the safe integration of these new technologies into the airspace. This includes setting standards for operation and safety, and coordination with existing air traffic management systems.
4. **Technological advancements:** the sector is embracing technological advancements to improve operational efficiency and safety. This includes advancements in air traffic management, adoption of advanced materials and designs for aircraft, and the integration of artificial intelligence and automation in various aspects of aviation operations.
5. **PRMs:** ENAC has developed several initiatives to support PRMs throughout their air travel, from arrival at the airport to departure from their destination. These include:
 - monitoring airport operators through audits, quality checks, and promoting the pre-notification of assistance requests for smoother processes,
 - collaborating with airlines, national associations and stakeholders on projects like the 'One Click Away' project and the autism-friendly travel programme, to improve accessibility and service quality; and
 - developing the 'ENAC PRM' app, available on both Apple and Android platforms, which provides information on assistance procedures, ensuring a more transparent and user-friendly experience. This initiative aims to raise awareness of the importance of pre-notification and ensure PRMs receive the necessary support during their journey

By focusing on these areas, Italy is positioning itself to meet future challenges and opportunities in the aviation sector, contributing to a more sustainable and efficient global aviation industry.

Endnotes

- 1 The exact amounts is calculated in Special Drawing Rights (SDRs), see footnote 3. [^] [Back to section](#)
- 2 EU Regulation No. 261/2004. [^] [Back to section](#)
- 3 Special Drawing Rights (SDRs) are an international type of monetary reserve currency created by the International Monetary Fund (IMF) in 1969. SDRs are not a currency in the traditional sense but a potential claim on the freely usable currencies of IMF member countries. [^] [Back to section](#)



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Introduction

Malta is a party to several international treaties in the field of aviation, including, in addition to those outlined in 'Legal framework for liability', below, the 1944 Convention on International Civil Aviation, the 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft, the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft and the 2001 Convention on International Interests in Mobile Equipment (the Cape Town Convention). Moreover, as a Member State of the EU since 2004, Malta is also bound by the numerous EU aviation directives and regulations.

However, the milestone in the Maltese aviation sector came in 2010 with the introduction of the Aircraft Registration Act (ARA),^[1] giving Malta a modern framework for aircraft registration and security interests over aviation assets. Accession to the Cape Town Convention has further strengthened the protection of mortgagees, in turn strengthening Malta's international appeal as an aviation jurisdiction of choice. Malta's success as an aviation jurisdiction is evident today in the year-on-year increase in the number of aircraft registered in Malta, which has grown by more than 600 per cent in the past 10 years, with 930 aircraft registered under the '9H' Malta register.^[2]

Furthermore, as a centre for international financial and trading services with an attractive corporate tax regime and aviation-specific fiscal advantages, Malta continues to attract interest in other areas of the aviation sector such as operator licences and the wider panorama of aircraft finance generally.

The Civil Aviation Directorate (CAD) within the Authority for Transport in Malta (TM) regulates all aviation activities in Malta and is responsible for:

1. the safety of aircraft;
2. aircraft and aerodrome operators;
3. air navigation service providers;
4. the licensing of aeronautical personnel; and
5. the conclusion of international air services agreements.

In wrongful death claims, the Maltese courts may, in addition to any actual loss and expenses incurred (*damnum emergens*), award to the heirs of the deceased person damages consisting in the loss of future earnings (*lucrum cessans*) of the deceased person. However, if the wrongful death is the result of a wilful act or omission, the damage to be made good will also include any moral harm or psychological harm caused to the claimant up to a maximum limit of €10,000. See 'Wrongful death', below, for more information.

The Civil Aviation (Investigation of Air Accidents and Incidents) Regulations (the Investigation of Air Accidents Regulations)^[3] contain provisions on voluntary reporting of incidents with a view to promoting the concept of a 'just culture'. See 'Voluntary reporting', below, for more information.

Year in review

As at the time of writing, the aircraft registered in Malta numbered 930.

The growth of the Maltese aircraft registry comes on the back of large international low-cost operators deciding to obtain a Maltese air operator licence and registering part of their fleet in Malta. By way of example, a Ryanair subsidiary in Malta, known as Malta Air, now has over 170 aircraft registered in Malta, while the subsidiary of Hungarian low-cost carrier Wizz Air has 104 other aircraft on the 9H register. Eurowings, a Lufthansa subsidiary, is taking the same approach, with its Malta-registered fleet standing at 31 aircraft and counting. Business jet operator VistaJet has more than 100 of its fleet registered in Malta.

Legal framework for liability

International carriage

Malta has ratified the following international instruments relating to international carriage: the Convention for the Unification of Certain Rules relating to International Carriage by Air (Warsaw, 1929) (the Warsaw Convention) and the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 1999) (the Montreal Convention) (the Warsaw Convention and the Montreal Convention collectively, the Carriage by Air Conventions).

By virtue of its membership of the EU, Regulation (EC) No. 2027/97 on air carrier liability in the event of accidents (the Air Carrier Liability Regulation)^[4] is also directly applicable in Malta.

The Carriage by Air (International and Non-International Carriage) Order (the Order)^[5] stipulates that the Carriage by Air Conventions have the force of law in Malta in relation to any carriage by air to which they apply, irrespective of the nationality of the aircraft performing that carriage. However, they do not apply in relation to Community air carriers (as defined in the Order) to the extent that the provisions of the Air Carrier Liability Regulation have the force of law in Malta.

The Order also stipulates that any liability imposed by Article 17 of the Carriage by Air Conventions on a carrier in respect of the death or wounding or any other bodily injury of a passenger shall be in substitution for any liability of the carrier in respect of the death or wounding or any other bodily injury of that passenger under Maltese law.

Internal and other non-convention carriage

The Order provides that the Montreal Convention applies to non-international carriage by air subject to the exceptions, adaptations and modifications established by the Order. The modifications in question include the omission or non-applicability of certain provisions of the Montreal Convention, such as Article 1.3 (Carriage to be performed by several successive carriers), Article 24 (Review of Limits), Article 33 (Jurisdiction), Article 46 (Additional Jurisdiction) and Article 51 (Carriage Performed in Extraordinary

Circumstances). However, this should all be without prejudice to the provisions of the Air Carrier Liability Regulation, which applies to carriage by air within a single EU Member State and to which Malta is bound to adhere by virtue of its membership of the EU.

Where the non-international carriage by air does not fall within the ambit of the Order or the Air Carrier Liability Regulation, any liability of the carrier in respect of passengers, baggage or cargo should fall to be regulated by the Civil Code^[6] provisions on tort, which are fault-based.

General aviation regulation

Liability in the operation of civil aviation aircraft is governed by various legislative instruments concerning civil aviation. For instance, the Civil Aviation Act (CAA)^[7] establishes liability in this regard as follows:

1. On the pilot or the person in charge of the aircraft and also the owner or lessee thereof (unless the owner or lessee proves that the aircraft was so flown without the owner or lessee's actual fault or privity) where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water.
2. On the owner of the aircraft or on any other person to whom the aircraft has been demised, let or hired out for any period exceeding 14 days (both of whom are entitled to indemnification if another person is legally liable) where material loss or damage is caused to any person or property on land or water by an aircraft, or by an article or person falling therefrom, while in flight, taking off or landing unless the material loss or damage was caused by the negligence of the person by whom it was suffered.
3. On the operator, the pilot or the person in charge of the aircraft in the event that an aircraft is used without the necessary operating licence or permit from the CAD as required by the CAA or is used in breach of any conditions to which that licence or permit is subject. Liability in this respect can also be imposed on any other person who made available facilities for travel or the consignment of goods on that flight knowing or having reasonable cause to suspect that the aircraft would be used in the above-mentioned manner. Similarly, the new Air Navigation Act (ANA)^[8] imposes liability on the operator of that aircraft and the member of the flight crew designated as commander of that aircraft by the operator or, failing that person, the person who is for the time being the pilot in command of the aircraft whenever the aircraft is flown without or in breach of the Air Operator Certificate (AOC) required by the ANA Act.

In addition, the CAA provides that where an offence thereunder is committed by an association or body of persons, every person who, at the time of the offence, was a director, manager, secretary or other similar officer of the association or body of persons or was purporting to act in that capacity will be guilty of that offence unless they prove that it was committed without their knowledge and that they exercised all due diligence to prevent the commission of the offence.

The ANA, establishing certain conditions for an aircraft to be permitted to fly, also imposes liability on the operator of that aircraft and its commander, in addition to the liability of any other person, for contravening any provision of the Order in relation to an aircraft, unless

they prove that the contravention occurred without their consent or connivance and that they exercised all due diligence to prevent the contravention.

Passenger rights

Aside from the rights established by the Order and the Air Carrier Liability Regulation (see 'International carriage' and 'Internal and other non-convention carriage', above), consumer rights in Malta governing compensation for delay, cancellation of flights and carriage of disabled passengers are largely dictated by Regulation (EC) No. 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No. 295/91 (the EU Denied Boarding Regulation). Accordingly, Malta, like other EU Member States, is required to ensure compliance by its air carriers with the provisions of the EU Denied Boarding Regulation, to designate a national enforcement body, to establish effective, proportionate and dissuasive sanctions that would apply in the event of a breach of the Regulation and to ensure that such sanctions are applied.

The Denied Boarding (Compensation and Assistance to Air Passengers) Regulations (the Denied Boarding Regulations)^[9] thus provide that the Director General (Consumer Affairs), as defined in the Consumer Affairs Act,^[10] is the designated person responsible for monitoring and the investigating compliance with the provisions of the EU Denied Boarding Regulation with regard to flights from airports situated in Malta and flights from a third country to airports situated in Malta. In discharging these functions, the Director General (Consumer Affairs) has the power, inter alia, to investigate and to institute judicial proceedings before the Civil Court (Commercial Section).

Moreover, the Denied Boarding Regulations stipulate that an operating air carrier that fails to comply with an obligation imposed on it by Articles 4 to 6, 10, 11 or 14 of the EU Denied Boarding Regulation will be guilty of an infringement punishable by a penalty of not less than €470 and not exceeding €5,000 and that, in the case of non-compliance with a compliance order, the Civil Court (Commercial Section) must impose a daily penalty of not less than €120 and not more than €230 for each day of non-compliance. Nevertheless, the Denied Boarding Regulations allow the operating air carrier to prove that it took all reasonable steps and exercised all due diligence to avoid committing such an infringement as a defence in proceedings brought against it. It also grants any person who feels aggrieved by a judgment, order, penalty or measure issued by the Civil Court (Commercial Section) the right to appeal before the Court of Appeal, on any point of law, or of fact, by means of an application filed within 20 days of the date of the judgment of the Civil Court (Commercial Section). The Court of Appeal is obliged to appoint the case for hearing by not later than six months from the judgment of the Civil Court (Commercial Section).

In addition to the EU Denied Boarding Regulation, Malta is bound by Regulation (EC) No. 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (the Disabled Persons Travelling by Air Regulation). Accordingly, Malta is required to ensure compliance with the provisions of this Regulation, designate a national enforcement body and establish effective, proportionate and dissuasive penalties that would apply in the event of a breach of the Regulation and to ensure that such penalties are applied.

The Civil Aviation (Rights of Disabled Persons and Persons with Reduced Mobility) Regulations (the Civil Aviation (Rights of Disabled Persons) Regulations)^[11] thus provide that the Director General of Civil Aviation (the Director General) is the designated person responsible for the enforcement of the provisions of the Disabled Persons Travelling by Air Regulation as regards flights departing from or arriving at airports situated in Malta, as well as the handling of complaints thereunder. The Civil Aviation (Rights of Disabled Persons) Regulations also establish a fine of not less €465.87 and not exceeding €2,329.37 on any air carrier (or its agent), tour operator or the managing body of the airport that fails to comply with the obligations pertaining to it under the Disabled Persons Travelling by Air Regulation.

Finally, the rights of persons with disabilities are further safeguarded in terms of the Equal Opportunities (Persons with Disability) Act^[12] and the United Nations Convention on the Rights of Persons with Disabilities Act.^[13] In particular, the latter Act^[14] makes provision for, inter alia, the possibility of civil claims alleging discrimination on the basis of disability in respect of the substantive articles of the United Nations Convention on the Rights of Persons with Disabilities. In particular, it prohibits the exclusion from, denial of or discrimination against a person with a disability in relation to the provision of certain goods, facilities or services, including facilities for transport or travel by land, sea or air unless the provision of those goods, facilities or services would be impracticable or unsafe and could not be made practicable and safe by reasonable changes to rules, policies or practices, or the removal of architectural, communication or transport barriers or the provision of auxiliary aids or services.

Other legislation

For competition law (cartels, dominance) and product liability law, refer below to 'Competition' and 'Product liability', respectively.

With regard to anti-corruption law, the Criminal Code^[15] contains several provisions relating to abuse of public authority. In this regard, it criminalises, inter alia, acts that constitute extortion, extortion or bribery committed by or in relation to those persons prescribed by the Criminal Code, including public officers or servants. Moreover, the Permanent Commission Against Corruption Act^[16] provides for the establishment and functions of a permanent commission against corruption. The commission's various functions include that of investigating allegations or suspicions of corrupt practices by or with the participation of the persons mentioned in this Act, including a public officer, a minister or a parliamentary secretary and to draft a report thereon for the Minister for Justice and the Attorney General if in the opinion of the Commission the conduct investigated is corrupt or connected with or conducive to corrupt practices. Corrupt practices are acts or omissions that constitute offences under certain provisions in the Criminal Code relating to abuse of public authority as outlined above, as well as acts or omissions that constitute an attempt, complicity or conspiracy to commit the offences.

Of note with regard to environmental law, the European Union Greenhouse Gas Emissions Trading System for Aviation Regulations (the EU ETS (Aviation) Regulations)^[17] implement the EU Emissions Trading System (EU ETS) in Malta. The EU ETS (Aviation) Regulations impose obligations on certain aircraft operators in relation to monitoring and reporting of annual emissions, as well as surrendering sufficient allowances (as defined in these Regulations) within the prescribed time while also establishing fines for breach of these

obligations. For the purposes of the EU ETS (Aviation) Regulations, where the aircraft operator is not known or is not identified by the owner of the aircraft, the owner of the aircraft shall be deemed to be the aircraft operator.

In addition, criminal liability and punishment is imposed on anyone found guilty of committing any of the unlawful acts as defined by and in terms of the Crimes Against the Environment Act,^[18] which transposes Directive 2008/99/EC on the protection of the environment through criminal law.

Licensing of operations

Licensed activities

A licence to carry by air passengers, mail or cargo for remuneration or hire (the operating licence) is required in Malta in terms of and subject to Regulation (EC) No. 1008/2008 on common rules for the operation of air services in the Community (Recast) (the Operation of Air Services Regulation). The power to grant, revoke or suspend an operating licence pursuant to the Operation of Air Services Regulation is vested in the CAD. The application for the grant of an operating licence is to be accompanied by a variety of documents, including documents containing information relating to the aircraft specifications and proposed operations of the applicant. See also 'Foreign carriers', below.

Aside from the exemptions granted by the Operation of Air Services Regulation, there is no requirement under Maltese law for an operating licence in respect of certain aircraft, such as those whose maximum total weight does not exceed 2,700 kilograms and that are used on a flight (1) in which persons are carried for the purpose of being given instructions in flying; (2) in which passengers are carried for pleasure or sightseeing purposes around Malta; or (3) in which the pilot in command gives a consideration to the owner of the aircraft to fly the aircraft.

Ownership rules

The Operation of Air Services Regulation stipulates the nationality rules for ownership of all or part of an operator. There are no financial or technical capability requirements for owners of aircraft unless they are also the operators of the aircraft in question, in which case the financial and technical capability requirements in the Operation of Air Services Regulation also apply. To this end, in addition to the documents that are to be submitted together with the application form referred to in 'Licensed activities', above, documents containing information relating to the shareholders, ultimate beneficial owners, directors and funding sources of the operator, as well as details of the AOC held or applied for by the operator, must be provided.

The requirements for an AOC, as well as for its suspension, variation or revocation, are stipulated in the ANA. The power to grant, suspend, vary or revoke the AOC is vested in the Director General. The Director General will grant an AOC, valid for one year, once he or she is satisfied that the applicant is competent, having regard to the applicant's previous conduct and experience, equipment, organisation, staffing, maintenance and other arrangements,

to secure the safe operation of aircraft of the types specified in the certificate on flights of the description and for the purpose so specified. In assessing a person's competence to operate the aircraft, the Director General will take into account that person's capability of meeting the relative safety requirements applicable, according to law, to their operation of aircraft.

Foreign carriers

Flights operated to or from Malta by non-Community air carriers require prior approval or an operating permit issued by the CAD. Before granting an operating permit, the CAD ensures that the services are undertaken in accordance with the traffic rights and conditions prevailing under the air services agreements that Malta or the European Union has signed with the third countries concerned.

Safety

Malta's legislative framework on aviation safety is derived mainly from the regulations and directives issued by the European Aviation Safety Agency (EASA) and the International Civil Aviation Organization (ICAO). Nevertheless, the ANA also contains a number of aviation safety requirements relating to mandatory reporting, maintenance, airworthiness and training.

More detailed information on aviation safety in Malta can be found in its State Safety Programme (SSP), which was prepared pursuant to the ICAO International Standards and Recommended Practices and is available on the website of the CAD.

Insurance

The Civil Aviation (Insurance Requirements for Air Carriers and Aircraft Operators) Order (the Insurance Order)^[19] stipulates that no aircraft is to be flown in Malta without having insurance cover that meets the requirements of the EU Insurance Regulation.^[20]

However, aircraft, including gliders, with a maximum takeoff mass of less than 500 kilograms, and microlights used for non-commercial purposes or used for local flight instruction that does not entail the crossing of international borders, shall, in respect of liability for third parties, have a minimum insurance cover per accident of 0.75 million special drawing rights (SDRs). Moreover, the minimum insurance cover required for non-commercial operation of aircraft with a maximum takeoff mass of less than 2,700 kilograms shall be 100,000 SDRs per passenger.

The Insurance Order also empowers the Director General to request from any air carrier or aircraft operator evidence of compliance with the insurance requirements stipulated therein. If such evidence is not produced on demand, the Director General is also empowered to refuse permission for the aircraft concerned to land in Malta. The Insurance Order also authorises the Director General to take all necessary steps to detain the

aircraft in Malta if the aircraft is intended or likely to be flown in breach of the insurance requirements stipulated therein.

Competition

Competition in Malta is principally regulated under the Competition Act (CA)^[21] and the subsidiary legislation falling thereunder, including the Control of Concentration Regulations,^[22] the Immunity from Penalties and Reduction of Penalties in Cartel Investigations Regulations^[23] and the Mutual Assistance between National Competition Authorities Regulations.^[24] These laws also implement the relevant EU rules on competition.

In particular, the CA prohibits certain agreements and practices, as well as the abuse of dominant positions, by undertakings within Malta or any part of Malta. It also enables the application of Regulation (EC) No. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty establishing the European Community (the Competition Regulation) and implements Directive 2014/104/EU on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union.

The exclusive competence to apply the provisions of the CA is vested in the Director General (Competition), who heads the Office for Competition (the Office) within the Malta Competition and Consumer Affairs Authority, and the Civil Court (Commercial Section) (the Court). Both the Office and the Court constitute the national competition authority in Malta pursuant to the Competition Regulation.

There is no separate legislative framework governing competition in the aviation sector. Hence the legislative framework outlined above applies in this regard. Thus, cooperation agreements between operators are allowed provided that they are in line with Article 5 of the CA. This provision mirrors Article 101 of the Treaty on the Functioning of the European Union, except that the anti-competitiveness or otherwise of the agreements in question is also assessed in light of whether they appreciably affect trade within Malta or any part of Malta.

Wrongful death

The Civil Code provides that in wrongful death claims the court may, in addition to any actual loss and expenses incurred, award to the heirs of the deceased person damages consisting in the loss of future earnings of the deceased person.

Although Malta does not follow a doctrine of judicial precedent, the formula typically adopted by Maltese courts to calculate damages for loss of future earnings is the percentage degree of disability multiplied by the average salary of the individual concerned multiplied by the number of years of remaining work-life expectancy and, sometimes, applying a discount for the lump sum payment.

If the wrongful death is the result of a wilful act or omission, the damage to be made good will also include any moral harm or psychological harm caused to the claimant. However, the amount to be awarded as moral or psychological harm may not be more than €10,000. See also 'Compensation', below.

Establishing liability and settlement

Procedure

In Malta claims may be settled amicably (out of court) or through court litigation before the Court of Magistrates (CM) if the claim does not exceed €15,000, or before the First Hall of the Civil Court (FHCC) if the claim exceeds this amount. A right to appeal against a decision of the CM or the FHCC exists. Court actions for damages have to be brought within a period of two years (subject to some exceptions such as in the case of product liability or where the damages arise from an act or omission that also constitutes a criminal offence), but a *res judicata* judgment in this respect may take several years to obtain.

Where two or more persons have maliciously caused the damage, their liability to make good the damage will be joint and several. Where, however, some of them have acted with malice and others without malice, the former will be jointly and severally liable, and each of the latter will only be liable for the part of the damage that he or she may have caused. Where the part of the damage that each has caused cannot be ascertained, the injured party may claim that the whole damage be made good by any one of the persons concerned, even though all or some of them have acted without malice (saving the right of the defendant to seek relief from the other or the others), in which case the defendant may also demand that all the persons causing the damage be joined in the proceedings and the court may apportion among them the sum fixed by way of damages, in equal or unequal shares, according to circumstances.

Carriers' liability towards passengers and third parties

See 'Legal framework for liability', above.

Product liability

Product liability is governed by the relevant provisions in the Consumer Affairs Act,^[25] which transposes the EU Product Liability Directive,^[26] as well as the provisions on tort found in the Civil Code. The former, which establishes a regime of strict liability, does not exclude or limit any rights or remedies available to the injured party under the latter. The general principle in Maltese tort law is that every person is liable for the damage that occurs through their fault and that a person is deemed to be in fault if, in their own acts, they do not use the prudence, diligence and attention of a *bonus paterfamilias*.

Compensation

See 'Wrongful death' above.

All Maltese citizens have access to primary health care services on the island free of charge while persons issued with a European Health Insurance Card will be eligible for emergency medical treatment for free or at a reduced cost during temporary visits. Individuals incapacitated in accidents may benefit from certain benefits granted under Malta's Social Security regime. These benefits may, depending on the circumstances, include Disability Assistance, Severe Disability Assistance, Increased Severe Disability Assistance, Severe Intellectual Disability Assistance and Visual Impairment Assistance.

The Investigation of Air Accidents Regulations, pursuant to Regulation (EU) No. 996/2010 on the investigation and prevention of accidents and incidents in civil aviation, require the CAD to develop a civil aviation accident emergency plan at national level that also covers assistance to the victims of civil aviation accidents and their relatives. The CAD is also required to ensure assistance to the families of victims and survivors of an accident or incident being investigated, by communicating all relevant information in time, facilitating their entry into the country and coordinating assistance efforts.

Drones

The regulation of drones in Malta is based almost exclusively on EU regulations in this respect, these being primarily Commission Delegated Regulation (EU) 2019/945 and Commission Implementing Regulations (EU) 2019/947 (the Drone Regulations).

CAD is the national aviation authority for the purposes of the Drone Regulations and, in this regard, is responsible for the registration of drone operators and the issuance of a corresponding UAS Operator Registration Number, as well as a UAS Operator Certificate. The CAD is also responsible for issuing the Light UAS Operator Certificate and for issuing drone flight authorisations and conducting remote pilot licence tests.

All operators operating their drone in Malta must be covered by a third-party insurance policy irrespective of the weight of the drone or the type of operation. This is because all of Malta's airspace is controlled airspace. Moreover, Malta has established several geographical zones in which the use of drones is restricted for environmental, safety or security reasons. These zones include embassies, hospitals, power stations and Malta International Airport.

By means of Act No. XXXVII of 2021 (See 'Year in review', above), the definition of the term 'aircraft' in the ARA was widened to include 'unmanned aircraft whose design is subject to certification under the EASA Basic Regulation', meaning that the aircraft registration and security regime established by the ARA also applies with respect to drones.

Voluntary reporting

The Investigation of Air Accidents Regulations impose an obligation on the CAD to promote a non-punitive environment facilitating the spontaneous reporting of occurrences and thereby advancing the principle of a just culture, in accordance with and subject to the provisions of Regulation (EU) No. 376/2014 on the reporting, analysis and follow-up of

occurrences in civil aviation. Such spontaneous occurrence reports are to be uploaded to the European Coordination Centre for Aviation Incident Reporting Systems database (the Database).

The Investigation of Air Accidents Regulations also provide that names or addresses of individual persons are not to be recorded in the Database and that the information recorded is to be used solely to facilitate the effective analysis of information on actual or potential safety deficiencies and to determine any preventive actions required. Moreover, spontaneous occurrence reports are not to be disclosed or made available to any other person other than in connection with an investigation or the improvement of aviation safety. Such reports may be made available to any person where that person is a party to or otherwise entitled to appear in judicial proceedings and the court, upon being satisfied that the interests of justice outweigh any adverse domestic and international impact that disclosure might have on the investigation in question or on any future investigation, has ordered that the report is to be made available to that person for the purpose of those proceedings. Notwithstanding this, spontaneous occurrence reports will not be disclosed where a rule of law authorises or requires the withholding of the report or part thereof on the grounds that its disclosure would be injurious to the public interest.

The SSP specifies that the concept of a just culture is not to be used as a way of exonerating reporters from their responsibilities, and that exceptions exist with respect to instances of, inter alia, wilful misconduct and gross negligence on the reporter's part. In addition, a Just Culture Monitoring Group (JCMG) has been established to support the CAD with spontaneous occurrence reporting, and in implementing the relevant provisions of the above-mentioned Regulation (EU) No. 376/2014, among other things.

Outlook and conclusions

As air passenger numbers to Malta have now exceeded pre-covid-19 levels, the outlook for the aviation industry in Malta remains very strong, particularly as the number of registered aircraft continues on its sharp upward trajectory and more international aircraft lessors are regularly seeing finance transactions involving Malta.

Endnotes

- 1 Chapter 503 of the Laws of Malta. [^ Back to section](#)
- 2 As of 5 August 2025. [^ Back to section](#)
- 3 Subsidiary Legislation 499.22. [^ Back to section](#)
- 4 As amended by Regulation (EC) No. 889/2002. [^ Back to section](#)
- 5 Subsidiary Legislation 499.24. [^ Back to section](#)
- 6 Chapter 16 of the Laws of Malta. [^ Back to section](#)

- 7 Chapter 232 of the Laws of Malta. ^ [Back to section](#)
- 8 Chapter 641 of the Laws of Malta. ^ [Back to section](#)
- 9 Subsidiary Legislation 378.14. ^ [Back to section](#)
- 10 Chapter 378 of the Laws of Malta. ^ [Back to section](#)
- 11 Subsidiary Legislation 499.50. ^ [Back to section](#)
- 12 Chapter 413 of the Laws of Malta. ^ [Back to section](#)
- 13 Chapter 627 of the Laws of Malta. ^ [Back to section](#)
- 14 This Act implements the United Nations Convention on the Rights of Persons with Disabilities adopted by the General Assembly by its resolution 61/106 of 13 December 2006 that entered into force on 3 May 2008, and which the government of Malta signed on 30 March 2007 and ratified on 10 October 2012. ^ [Back to section](#)
- 15 Chapter 9 of the Laws of Malta. ^ [Back to section](#)
- 16 Chapter 326 of the Laws of Malta. ^ [Back to section](#)
- 17 Subsidiary Legislation 423.51. ^ [Back to section](#)
- 18 Chapter 522 of the Laws of Malta. ^ [Back to section](#)
- 19 Subsidiary Legislation 499.41. ^ [Back to section](#)
- 20 Regulation (EC) No. 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators. ^ [Back to section](#)
- 21 Chapter 379 of the Laws of Malta. ^ [Back to section](#)
- 22 Subsidiary Legislation 379.08. ^ [Back to section](#)
- 23 Subsidiary Legislation 379.10. ^ [Back to section](#)
- 24 Subsidiary Legislation 379.11. ^ [Back to section](#)
- 25 Chapter 378 of the Laws of Malta. ^ [Back to section](#)
- 26 Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products. ^ [Back to section](#)



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Romania

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Introduction

Located at the crossroads of Central, Eastern and South-Eastern Europe, Romania is a member of the European Union and has 17 operational commercial airports. Other projects in various stages of development include airports in the south of Bucharest and Galați-Brăila.

The biggest and busiest airport in Romania is Henri Coandă International Airport, which serves approximately 130 international destinations and 10 internal destinations. Henri Coandă International Airport is located in the north of Bucharest and has two terminals and two runways, both 3,500 metres long, with over 14 million passengers transported annually.

The national authorities in Romania are the Ministry of Transportation and the Romanian Civil Aeronautical Authority. The Ministry of Transportation has delegated some of its duties to the Romanian Civil Aeronautical Authority.

The Romanian Civil Aeronautical Authority, as it now stands, was established in 1993 and acts as the safety regulator and oversight authority for civil aviation in Romania. Its goals are aligned with those established by the International Civil Aviation Organization and the European Civil Aviation Conference and the European Aviation Safety Agency to maintain and increase aviation safety by effective and efficient processes and measures in the areas of safety regulation and oversight.^[1]

Year in review

While 2023 marked the commencement of insolvency proceedings in respect of Blue Air Aviation, in 2025 the court declared the bankruptcy of the company, following the legal steps for the liquidation of assets and deregistration. On the other hand, the passenger air transportation sector continues to develop in Romania, with increased activity from new and developing airlines with local hubs, such as Dan Air, Animawings, Fly Lili, AirConnect and HiSky Europe. Significant state aid for state-owned flag carrier Tarom has also received EU Commission approval for up to €95.3 million (including a capital injection of some €45.77 million) to enable the company to restore its long-term viability. This restructuring plan also includes the spin-off of the company into a new structure, Tarom Tehnic, which will take over maintenance and repair activities of aircrafts.

As of 1 January 2025, Romania and Bulgaria became full members of the Schengen Area, following the removal of internal air and sea border controls between them and other Schengen countries on 31 March 2024.

Legal framework for liability

The principal legislation in Romania is a combination of international, European and national legislation.

International carriage

Romania is party to the Warsaw Convention (ratified on 8 July 1931 and entered into force on 13 February 1933), the Hague Protocol (ratified on 3 December 1958 and entered into force on 1 August 1963) and the Montreal Convention. Romania ratified the Montreal Convention by Government Ordinance No. 107/2000, approved by Law No. 14/2001.

The provisions of the Montreal Convention are binding on all carriage, international or internal, by EU operators, pursuant to Regulation No. 2027/97, as amended by Regulation No. 889/2002.

Internal and other non-convention carriage

The Montreal Convention, through Government Ordinance No. 107/2000 and Regulation (EC) No. 2027/97, as amended, is directly applicable to carriage in Romania. The national law regulating air carrier liability on internal carriage and the national law regulating passengers' right to compensation were abolished by Law No. 234/2007 following Romania's accession to the European Union.

General aviation regulation

The most important regulation is the Romanian Civil Air Code (the Air Code), which sets the general rules applicable in civil aviation. A new Air Code was adopted on 19 March 2020 and entered into force on 19 June 2020. The Air Code expressly provides that civil aeronautical activities within the territory and in the national airspace of Romania are governed by the Code and other relevant legislation, by the Convention on International Civil Aviation, signed in Chicago on 7 December 1944 (the Chicago Convention), and by the bilateral and multilateral treaties to which Romania is a party.

The Air Code regulates all civil aeronautical activities carried out in the national airspace and in the territory of Romania, including any activities that disturb flight safety and aeronautical security.

The Air Code provides that secondary regulation can be issued by the Ministry of Transport and by the Romanian Civil Aeronautical Authority. These regulations may cover various aspects of liability, including aircraft operation, maintenance, safety, and insurance requirements.

Passenger rights

Passenger rights are covered by Regulation (EC) No. 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights. Regulation No. 261/2004 has direct effect in Romania. This Regulation applies to flights departing from an EU Member State, including Romania, as well as flights arriving in the EU on an EU carrier.

The National Authority for Consumer Protection (ANPC) is the body responsible for enforcement of passenger rights. Over the past two years ANPC has increased supervision

of airlines and has initiated structured dialogues with airlines and airport authorities ahead of peak season in 2024.

Non-compliance with the provisions of Regulation No. 261/2004 regarding the right to compensation, the right to reimbursement or rerouting, the right to care and the obligation to inform can result in a fine of up to €600 for each passenger.

Passengers are generally eligible for compensation if their flight was delayed or cancelled due to reasons within the airline's control, such as operational issues or insufficient crew. Extraordinary circumstances, such as severe weather or air traffic control strikes, may exempt the airline from compensation obligations.

The regulation also outlines additional passenger rights, such as the right to care (meals, refreshments, accommodations) during longer delays and the right to rerouting or reimbursement of the ticket cost.

The rights of disabled persons or persons with reduced mobility are covered by Regulation No. 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air. This Regulation is directly applicable in Romania and the responsible body for enforcing its provisions is the National Authority for Disabled Persons. The responsible body can apply fines to air carriers, tour operators and managing bodies of airports for failure to comply with the obligations to accept reservations, with the obligation to designate points of arrival and departure within the airport, the obligation to provide assistance, and the obligation to compensate for lost or damaged wheelchairs, other mobility equipment and assistive devices, etc.

Other legislation

The aviation sector is ruled by the same general liability provisions as those applicable in Romania to other activities, which include, in addition to the Civil Code, Law No. 21/1996 (the Competition Law), Emergency Ordinance No. 77/2014 regulating state aid and the Environment Protection Regulations.

A notable area of legislative development is the local implementation of the European framework legislation on the vetting of foreign direct investments in key economic sectors (Regulation (EE) 2019/452) largely via changes to the Competition Law. This may affect transactions in the aviation sector particularly where they may impact the country's interest in transportation safety (CSAT Resolution no. 73/2012).

In terms of anti-corruption law, there are several public authorities that handle the fight against corruption in Romania including the Romanian National Anti-corruption Directorate (DNA), the General Anti-corruption Directorate (DGA), the Directorate for the Fight against Fraud (DLAF) and the National Integrity Agency (ANI).

In criminal matters, there are provisions concerning the fight against terrorism, including air terrorism, in Law No. 535/2004 on preventing and combating terrorism, which punishes acts committed for one of the following purposes:

1. intimidation of the population, or a segment of it, by causing a strong psychological impact;
- 2.

unlawful coercion of a public authority or international organisation to perform, not to perform or to refrain from performing a certain act;

3. serious destabilisation or destruction of the fundamental political, constitutional, economic or social structures of a state or international organisation.

Licensing of operations

Licensed activities

The licensing of air carriers, the right of air carriers to operate in Romania, air services and the pricing of Romanian air services are regulated under Regulation (EC) No. 1008/2008 on common rules for the operation of air services in the Community (Recast).

In Romania, the procedure for the issuance, suspension and revoking of the operating licence was approved through Government Order No. 808/2011.

All air services require an operating licence, except those performed by non-power-driven aircraft or ultralight power-driven aircraft, and local flights.

A request for the issuance of an operating licence shall be submitted to the Aviation Division of the Ministry of Transport, together with the following documents:

1. an air operator certificate;
2. a certificate of incorporation of the air operator;
3. insurance policies, in accordance with Regulation (EC) No. 785/2004;
4. the articles of incorporation of the air operator;
5. shareholders' structure and details of the shareholders;
6. a description of the previous activity of the company;
7. the balance sheet for the previous year;
8. a three-year business plan that includes an indication of the geographical areas where the air carrier will operate, an indication of the aviation activities to be performed, any potential commercial collaborations and information on the sales system;
9. analyses of the envisioned costs for the activities and of the financing methods; and
10. proof of good standing for the persons who will continuously and effectively manage the operations.

The Aviation Division has the power to request further documents before issuing the operating licence. Usually, the licence is issued within 60 days of the date that the documentation is complete. If the Aviation Division decides not to issue the operating licence, the air carrier can oppose the decision.

An operating licence shall be valid as long as the air carrier complies with the requirements imposed by Regulation No. 1008/2008.

Ownership rules

In addition to the restrictions provided in Article 4 of Regulation No. 1008/2008, which state that Member States or nationals of Member States shall own more than 50 per cent of the undertaking and effectively control it, whether directly or indirectly, through one or more intermediate undertakings, there are no other restrictions imposed on air carriers.

However, in accordance with the provisions of the Chicago Convention, civil aircraft must hold a registration certificate to operate in national airspace, as stipulated in the Air Code. The Ministry of Transportation may establish, by specific regulations, categories of civil aircraft that can operate in the national mining area without holding a registration certificate. If a civil aircraft is registered in Romania, it cannot be registered in another state.

The ownership rights or the transfer of the ownership and any other rights related to civil aircraft are governed by the national law and entered in the Civil Aircraft Register. Registration alone does not constitute title, but it allows the right to be enforced against third parties.

With regard to enforcement, state aircraft registered in Romania, as well as equipment and installations necessary for the provision of air navigation services in the national airspace, cannot be subject to attachment or enforcement proceedings.

Foreign carriers

Pursuant to Article 15 of Regulation No. 1008/2008, EU air carriers that have been granted an operating licence by another Member State are entitled to operate intra-Community services.

Non-EU air services are governed by the Chicago Convention and other bilateral treaties.

The rights for the conduct of international air transportation by non-EU carriers to and from Romanian airports is governed by the air transport agreements entered into by Romania and certain non-EU states, or as the case may be, with other Member States. According to Article 53 of the Air Code, foreigner carriers can perform air services in Romanian national air only in accordance with the traffic rights that are granted by the Ministry of Transport.

Safety

Flight safety is a mandatory requirement and also a fundamental performance criterion for any civil aeronautical activity. In Romania, in accordance with the Air Code, flight safety includes issuing specific regulations, including the setting of safety targets and minimum acceptable levels of safety; providing the framework for the implementation of regulations, objectives and safety levels; and supervision of flight safety. The national safety objectives and the minimum safety requirements are set up in the National Civil Air Safety Programme approved by the Ministry of Transportation.

The Romanian Civil Aeronautical Authority was designated as the national supervisory authority and specialised technical body for performing the civil aviation safety oversight function at national level. Its main responsibilities include:

1. certification of civil aeronautical agents, civil aviation personnel and aeronautical technical services in accordance with the applicable national and Community regulations;
2. certification of civil aerodromes (e.g., airports);
3. approval of works in areas subject to civil aviation easements;
4. flight safety inspection; and
5. the exercise of registry activities in civil aviation.

In exercising its duties, the Romanian Civil Aeronautical Authority can temporarily prohibit or restrict flights of foreign air carriers if it receives information that the operation or maintenance of the aircraft does not meet the minimum safety standards established under the Chicago Convention. It can also decide to detain civil aircraft in cases of non-compliance with the minimum safety standards until the deficiencies have been remedied.

For the purposes of air safety, certification of aeronautical agents (air carriers, developers of aeronautical equipment and aeronautical infrastructure, air navigation agents, etc.) and of aeronautical personnel is required by the Air Code.

Insurance

Liability insurance of air carriers and aircraft operators is regulated by Regulation No. 785/2004 on insurance requirements for air carriers and aircraft operators.

This Regulation applies to all air carriers and to all aircraft operators flying within, into, out of or over the territory of an EU country. Air carriers and aircraft operators must be insured, in particular in respect of passengers, baggage, cargo and third parties, and risks associated with aviation-specific liability (including acts of war, terrorism, hijacking, acts of sabotage, unlawful seizure of aircraft and civil commotion).

Air carriers and aircraft operators registered in Romania must submit to the Romanian Civil Aeronautical Authority copies of their respective insurance policies. When registering for an operating licence, insurance for cargo and third parties must be provided.^[2]

All aircraft that fly into or out of Romania must have on-board copies of their insurance policies and upon request must provide the copies to the agents of the competent body.

Failure to present a valid insurance policy when operating a flight in the Romanian airspace may result in fines.

Competition

Competition between air carriers is regulated by the Romanian and EU competition law. Romanian national competition law is mainly set out in the Competition Law (Law No. 21/1996). In addition to the national legal framework, European competition law is applicable. Regulation (EC) No. 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and Regulation (EC) No. 139/2004 on the control of concentrations between undertakings are relevant. In addition, Regulation (EC) No. 411/2004, which repealed Regulation (EEC) No. 3975/87 and amended Regulation (EEC) No. 3976/87 and Regulation No. 1/2003, in connection with air transport between the Community and third countries, extends the applicability of European competition law to air transport between the European Union and third countries.

The applicable competition rules are applied by the Romanian Competition Council and the European Commission's DG Competition.

Wrongful death

Under the Air Code, Regulation (EC) No. 2027/79 on air carrier liability in the event of accidents, and also under the Montreal Convention, the liability of the air carrier in cases of wrongful death is not limited. For damages up to 100,000 special drawing rights (SDRs), the air carrier cannot contest claims for compensation. Above that amount, the air carrier can defend itself against a claim by proving that it was not negligent or otherwise at fault.

In the event of wrongful death, the air carrier must make an advance payment to cover immediate economic needs within 15 days of the identification of the person entitled to compensation. In the event of death, this advance payment shall not be less than 16,000 SDRs.

Generally, the liability of the air carrier for passengers is regulated in the Civil Code, in the Transport Agreement Chapter. The carrier is responsible for the death of, or injury to, the integrity or health of the passenger. Any provision removing or limiting the liability of the carrier for the damage shall be deemed unwritten.

In the event of a passenger's death, under the Montreal Convention the air carrier is liable for the material and non-material damage suffered by persons entitled to claim damages. In the absence of a contractual relationship between the carrier and the heirs, liability cannot be attributed on a contractual basis. In this situation, it is the air carrier's tort liability to the deceased's family.

Therefore, wrongful death is a civil liability, regulated as a tort in the Civil Code. The Civil Code provides that only the persons who were dependent on the deceased are entitled to compensation. In determining the compensation, the judge will take into account the needs of the entitled persons and the income normally earned by the deceased.

If entitlement to a social security allowance or pension is recognised, compensation is only due to the extent that the damage suffered by death exceeds the allowance or the pension.

Establishing liability and settlement

Procedure

If the Romanian courts are competent to resolve claims that have arisen from international carriage, the provisions of the Civil Procedure Code shall apply.

In the event of the death of a passenger, in accordance with the provisions of the Montreal Convention, a case for the liability of the carrier may be brought by the deceased's heirs.

With regard to air carrier liability, the Montreal Convention provides that the time limit for bringing a claim is two years from the date of arrival of the aircraft at the destination or from the date on which the aircraft should have arrived at the destination. If the two-year period is exceeded, the right to compensation is lapsed. The method of calculating this period is set by the law governing transport contracts.

Where Regulation No. 261/2004 is applicable, the passenger should first submit a complaint to the air carrier operating the flight concerned. Should the air carrier fail to provide a reply within six weeks of receipt or if the response is not satisfactory, a complaint can be sent to the National Authority for Consumer Protection.

Carriers' liability towards passengers and third parties

The liability of the air carrier is primarily regulated by the provisions of the Montreal Convention, which provides maximum liability limits. The air carrier is the party primarily held accountable.

The liability of the air carrier results from the contract of carriage concluded with each passenger at the time of purchase and payment of the flight ticket. Under this contract, the air carrier has the obligation to carry the passenger in maximum security, guaranteeing the protection of the health and life of the passenger in question who is benefiting from transport services under a contract. Injury or death of the passenger is a breach by the air carrier of the contractual obligations mentioned above. As a result, airline liability to the passenger for the damage suffered by him or her as a result of injury is a contractual liability.

In accordance with the provisions of Regulation No. 593/2008, the contract of passenger transport is governed by the law of the country of residence of the passenger provided that the place of departure or arrival is also located in that country and only if the parties have not chosen another applicable law. If these requirements are not met, the law of the country of the habitual residence of the carrier shall apply.

In the event of passenger death, under both the Warsaw Convention and the Montreal Convention, the airline is liable for the material and non-material damage suffered by persons entitled to claim damages. In the absence of a contractual relationship between the carrier and the heirs, liability cannot be attributed on a contractual basis. In this case, it is the airline's tort liability to the deceased's family.

The Civil Code provides that the carrier shall be liable for the death of, or injury to, the integrity or the health of the passenger and for all direct and immediate damage resulting from the non-performance of the carriage, from its performance under conditions other than those laid down or from a delay in its performance. If the contract is no longer of

interest to the passenger owing to a delay in performance of the carriage service, the latter may denounce it, requesting the reimbursement of the price.

The carrier shall not be liable if the damage was caused by the passenger, intentionally or by gross negligence. The burden of proof in this respect is on the carrier.

In addition, the carrier is not liable when it proves that the damage was caused by the passenger's health, by the action of a third party for whom it is not held responsible or by force majeure. However, the carrier remains liable for the damage caused by the aircraft as a result of a technical fault or the actions of crew members.

The carrier shall be liable for the luggage or other property of the passenger within the limit of its declared value or, if the value has not been declared, by what would be considered the normal contents according to the circumstances.

If the injured party only takes action against the airline, the airline has to pay the full amount but may recover the corresponding shares of damages from the other injuring parties. A recourse claim may be considered, for example, if the damage is caused by several injuring parties that are liable in solidarity with the injured party.

Product liability

Council Directive No. 85/374/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products was implemented in Romania by Law No. 240/2004 on the liability of the producers. The national law stipulates that the producer is liable for the current and future damage caused by the defect of its product if the injured party can prove the damage, the defect and the causal relationship between the defect and the damage. In certain situations, the producer will not be held liable if it proves the following:

1. it did not put the product into circulation;
2. having regard to the circumstances, it is probable that the defect that caused the damage did not exist at the time the product was put into circulation by it or that this defect came into being afterwards;
3. the product was neither manufactured by it for sale or any form of distribution for economic purposes, nor manufactured or distributed by it in the course of its business;
4. the defect is attributable to the compliance of the product with mandatory regulations issued by the public authorities;
5. the state of scientific and technical knowledge at the time when it put the product into circulation did not allow the defect to be discovered; or
6. in the case of a manufacturer of a component, the defect is attributable to the design of the product in which the component has been fitted or to the instructions given by the manufacturer of the product.

A limitation period of three years is applicable to proceedings for the recovery of damages as a result of a defective product. The limitation period runs from the day on which the

injured party became aware, or should reasonably have become aware, of the damage, the defect and the identity of the producer.

The rights conferred upon the injured party pursuant to the law on the liability of the products shall be extinguished 10 years after the date on which the producer put into circulation the actual product that caused the damage.

Compensation

The injured parties and their beneficiaries must take necessary action to identify the liable persons or entities and their insurers to negotiate the compensation (except for the mandatory payment imposed on European air carriers).

Under Romanian civil law, all damage suffered has to be fully compensated. This compensation will always be recoverable, provided that the cause of the accident is proved. Moral and material damage can be compensated.

If the damage is of a continuous nature, the compensation is granted in the form of periodic benefits.

In the case of future damage, compensation, regardless of the form in which it was granted, may be increased, reduced or suppressed if, after it is determined, the damage has increased, diminished or ceased.

In the case of injury to the physical integrity or health of a person, the compensation must account for loss of earnings (wages) as a result of the injured person being unable to work or as a result of a reduction in the ability to work. The compensation must also include the cost of medical care and, if appropriate, the cost of increasing the life needs of the injured party, as well as any other material damage.

Compensation for loss of earnings (wages) shall be determined by the judge on the basis of:

1. the average net monthly work income of the injured person in the last year before the loss or reduction of his or her working capacity; or
2. the net monthly income the injured person could have earned, taking into account the professional qualifications he or she had.

If the injured party is a minor, the compensation shall be determined as mentioned above, but it shall be calculated as due from the date when the minor has reached the age prescribed by law to be part of a work relationship.

Moreover, in the event of injury to the physical integrity or health of a person, compensation may be granted for damage as a result of the restriction of family and social life.

In the event of death, the persons who were dependent on the deceased are entitled to compensation. In determining the compensation, the judge will take into account the needs of the entitled persons and the income normally earned by the deceased. The parents, siblings, spouse and children of the deceased can request compensation for the pain suffered as a result of the victim's death. This right can be exercised by any other person who can prove the existence of injury of this kind.

The person who has incurred expenses for the care of the victim's health or, in the event of his or her death, for the funeral, has the right to be reimbursed for these expenses by the person responsible for the act that caused these costs.

However, if entitlement to an allowance or pension is recognised in the social security system, the compensation is due only to the extent that the damage exceeds the allowance or the pension.

Drones

The Civil Air Code defines drones as unmanned aircraft that can perform a scheduled or remotely controlled flight, and all the provisions from the Civil Air Code regarding aircraft are applicable to unmanned aircraft, except where provided otherwise.

According to the Romanian Civil Aeronautical Authority,^[3] flight activities of unmanned aircraft that are conducted in national or European airspace after 1 January 2024 must be performed within the limits and in accordance with the provisions of Regulation No. 1139/2018, Regulation No. 2019/945, Regulation No. 2019/947, Law No. 21/2020 on the Air Code (March 2020 edition), Government Decision No. 859/2021 and Government Decision No. 643/2020.

In this sense, drone flight activities can be carried out under one of the following categories:

1. 'Open' category, subject to the following limitations: (1) maximum take-off mass under 25kg; (2) operation within visual range of the pilot; (3) maximum flight height of 120 metres; (4) prohibition to throw materials or substances; and (5) safe distance from people, no flying over groups. Drones must be registered with a unique operator code and be labelled as class C0 to C4, as applicable. The pilot must hold an A1/A3 and, where applicable, A2 certificate of competency.
2. 'Specific' category, when the limitations of the open category cannot be complied with, subject to the following conditions: (1) holding a letter of acceptance of the EASA Standard Scenario Statement, for drones with 'C5' or 'C6' markings; (2) holding an operational authorisation issued by the AACR, based on an operational manual and risk analysis; and (3) holding a certificate for light drones issued by the Romanian Civil Aeronautical Authority, for the assessment and approval of their operations.
3. 'Certified' category for flights over crowds, or transport of passengers or dangerous goods, subject to the following conditions: (1) holding a type certificate issued by EASA and certificates of airworthiness and registration; (2) holding an Air Operator Certificate; (3) holding a pilot's licence similar to that of pilots of manned aircraft.

According to the national stipulations regarding drones (unmanned aerial vehicles), to operate a drone an operator needs the following documents:

Registration certificate

For an unmanned on-board motorised aircraft to be operated in the national airspace it must hold an identification or registration document. This certificate can be obtained by submitting a request together with the relevant documents to the Romanian Civil Aeronautical Authority in accordance with Airworthiness Directive No. DN 14-02-001.^[4] The fee for obtaining the registration certificate is €90 plus VAT per aircraft.^[5]

In the event the unmanned on-board motorised aircraft already holds a registration certificate or an equivalent document issued by another country, the Romanian Civil Aeronautical Authority may recognise this document.

National flight permit for aircraft with a maximum take-off mass of more than 15kg

The requirements for the national flight permit are contained in the Romanian Civil Aeronautical Regulation RCAR–FACA 'Flight Admissibility of Certain Civil Aircraft Categories' Chapter VI 'Unmanned Aerial Vehicles (UAV)'. The fee for obtaining the national flight licence is €540 plus VAT per aircraft.^[6]

Third-party liability insurance

Insurance for unmanned on-board motorised aircraft with a maximum take-off mass greater than 20kg is mandatory and shall be issued in accordance with Regulation (EC) No. 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators.

Insurance for unmanned on-board motorised aircraft with a maximum take-off mass of less than 20kg is optional and the operator shall have sole responsibility.

Operating licence

Depending on the activity the operator will perform, the operator must seek and obtain approvals and endorsements and conclude the protocols specified in Government Decision (GD) No. 859/2021 for the approval of the procedure for the authorisation of flights in the national airspace as well as the conditions under which the take-off and landing of civil aircraft may also be performed on other land or water surfaces than certified aerodromes.

To meet the conditions for which flights are considered to be authorised in the controlled airspace or area of airspace where no air traffic control services are provided, in accordance with the stipulations of GD No. 859/2021, the following apply:

1. approval for photo shooting or aerial photography: this approval is requested in accordance with GD No. 859/2021 from the Romanian Ministry of Defence;
2. approval for operation below minimum safety heights: this approval must be requested in accordance with GD No. 859/2021 from the Ministry of Defence for operating below 3,000 metres above the area of Bucharest. For other areas, the request must be submitted to the Romanian Civil Aeronautical Authority;
3. approval for flights in the border area; and

4. take-off and landing approvals.

Overflight authorisation for operating in the area of the Danube Delta Biosphere Reserve

According to the stipulations of Law No. 82/1993 on the establishment of the Danube Delta Biosphere Reserve, as subsequently amended and supplemented, air operators intending to conduct flights in the airspace of the Danube Delta Biosphere must request the Danube Delta Biosphere Reserve Administration to issue an overflight permit.

Drones within the Ministry of Internal Affairs

The government has adopted Emergency Ordinance No. 110/2023 on the operation of drones within the Ministry of Internal Affairs, and the General Aviation Inspectorate has been designated as the centralised procurement unit for drones. The Ministry uses drones to capture information needed to perform its tasks and to support other ministries and government institutions. The information is collected and transmitted automatically for processing by the beneficiary structures. In areas where people are present, the use of zoom sensors is prohibited to avoid identification.

Voluntary reporting

In Romania, voluntary reporting is regulated by the Romanian Civil Aeronautical Regulation on Civil Aviation Event Reporting (RACR–REAC) of 20 July 2016 approved by Government Order No. 600/2016. The RACR–REAC ensures the national application of the relevant provisions of Regulation (EU) No. 376/2014 on the reporting, analysis and follow-up of occurrences in civil aviation.

The reporting system is managed by the Civil Aviation Safety Investigation and Analysis Authority (SIAA). All persons are encouraged to report voluntarily any event or information perceived as a real or potential threat to aviation safety, either to the internal function or structure of their organisation or directly to the SIAA.

The voluntary reporting system set up by the SIAA at the national level includes the possibility of reporting online on the SIAA website or by downloading the reporting forms from the website and submitting them using alternative means (fax, email, etc.).

The SIAA ensures the anonymity of reporters and the persons nominated in their reports and uses the information in compliance with the provisions of Regulation No. 376/2014.

A person who voluntarily reports a civil aviation event also has the possibility to send the report in a sealed envelope marked as confidential. Subsequently, to determine the treatment of the event, the SIAA reserves the right to contact the person who reported it. The original report is recorded in the database and classified as 'Confidential, without Reporter's Identification Data'.

According to the RACR–REAC, the SIAA will manage the reports to prevent the use of information for purposes other than aviation safety and to properly ensure the

confidentiality of the identity of reports and of the persons mentioned in event reports. The aim is to promote the concept of a 'just culture'.^[7]

Special considerations

On 30 March 2018, Romania deposited with UNIDROIT the instrument of accession to the Cape Town Convention on International Interests in Mobile Equipment and to the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment. It made declarations in respect of Articles 39 (1) (b) and 54 (2) of the Convention.

Recently, in August 2025, the Ministry of European Investments and Projects issued an Act on the de minimis aid scheme 'Supporting Romanian companies in the process of listing on the stock exchange', financed under Component C9 – Support for the private sector, research, development, and innovation of the National Recovery and Resilience Plan (PNRR). The scheme aims to support Romanian companies in the process of listing on the stock exchange, in accordance with European sustainability principles. Beneficiaries must comply with the 'do no harm to the environment' principle, and those who derive more than 50 per cent of their revenue from excluded activities, including, inter alia, manufacture of aircraft and spacecraft, are required to develop and publish a green transition plan within 60 days of signing the contract. At the end of implementation, an independent auditor will confirm the scheme's compliance with the provisions of the PNRR and EU guidelines.

Outlook and conclusions

In light of the 'Fit for 55' legislative package, the EU's latest measure to boost renewable energy and decarbonisation in aviation, attention should be drawn to Regulation (EU) 2023/2405, which applies to aircraft operators, EU airports and their respective EU airport managing bodies, and aviation fuel suppliers. Regulation (EU) 2023/2405 provides that, starting from 2025, aviation fuel suppliers must provide fuel with a minimum sustainable aviation fuel (SAF) content at EU airports, with specific targets for synthetic fuels starting in 2030. SAF encompasses synthetic aviation fuels, advanced biofuels, and recycled carbon fuels, but excludes first-generation biofuels from food and feed crops. The yearly quantity of aviation fuel uplifted by a given aircraft operator at a given EU airport must be at least 90 per cent of the yearly aviation fuel required. Member States shall lay down the rules on penalties applicable to infringements of this Regulation and must take all measures necessary to ensure that they are implemented.

In Romania, Government Emergency Ordinance No. 151/2024 implements Regulation (EU) 2023/2405 on sustainable aviation fuels in Romania, designates the responsible authorities, sets obligations and penalties for operators and suppliers, and supports the development of SAF production.

Endnotes

- 1 www.caa.ro. ^ [Back to section](#)
- 2 Article 4(1)(d) of the Procedure on Issuance, Suspending and Revoking the Operating Licence, approved through Government Order No. 808/2011. ^ [Back to section](#)
- 3 Available on the Romanian Civil Aeronautical Authority's website: www.caa.ro. ^ [Back to section](#)
- 4 Available on the Romanian Civil Aeronautical Authority's website: www.caa.ro. ^ [Back to section](#)
- 5 According to Order of the Ministry of Transport and Infrastructure (OMTI) 1305/2012. ^ [Back to section](#)
- 6 According to OMTI 1305/2012. ^ [Back to section](#)
- 7 Article 4.2 of the Romanian Civil Aeronautical Regulation on Civil Aviation Event Reporting. ^ [Back to section](#)



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Introduction

Serbia has had an influence on the development of modern aviation since the earliest days of flight's centuries-long existence in the world. Serbia was among the first countries to include aviation regulations in its national framework, even before the First World War.^[1]

As a constituent part of former Yugoslavia, Serbia has, over past decades, developed civil aviation accompanied by the relevant regulations. Due to issues concerning legal continuity in relation to former Yugoslavia, during the 1990s Serbia, more precisely the Federal Republic of Yugoslavia (FRY), was unable to continue membership in ICAO. All of this was a consequence of the adoption of the Resolution A29-2, precluding FRY's further participation in the work of the the International Civil Aviation Organization (ICAO) Assembly and ordering it to apply for full membership, on the basis of UN resolutions.^[2] A formal re-engagement with the work of ICAO commenced in 2000 and, after the subsequent dissolution of FRY, Serbia, as a successor state, became an independent ICAO member in 2006.^[3]

Due to the previously mentioned problems, during the 1990s, Serbia did not transform its aviation authority into an independent agency, nor did it corporatise the air navigation service provider, following similar models as was done in most European countries. In late 2003 and early 2004, the Civil Aviation Directorate (CAD), as the civil aviation authority (CAA), and Serbia and Montenegro Air Traffic Services (SMATSA),^[4] as air navigation service provider (ANSP), were created. These were key steps in an effort to create a modern, competent and efficient aviation authority that would regulate the field of civil aviation and preserve the secure and safe conduct of civil aviation.

The signing of the European Common Aviation Area (ECAA) Multilateral Agreement, together with further legal regulation of air traffic in 2006, brought Serbian aviation legislation in line with EU regulations. On 29 June 2006 in Brussels, Serbia signed the Multilateral Agreement between the European Community and its Member States with the countries of the Western Balkans, Norway and Iceland on the establishment of the ECAA – the first international treaty signed by Serbia since its re-proclamation of independence in 2006.^[5] Subsequently, civil aviation regulation in Serbia became harmonised with international legislation, primarily regulations emanating from the EU. Further international cooperation and thus further development of civil aviation in Serbia are expected to follow the country's recent membership of the Horizon Europe programme.^[6]

As from July 2015, following the adoption of the Law on the Investigation of Accidents in Air, Rail and Water Transport,^[7] the investigation of accidents and serious accidents in air traffic falls within the scope of this Law. The legislative changes seen in recent years have been accompanied by institutional ones. For many years previously, Serbia had only two laws related to civil air traffic, but the enactment of the Law on the Investigation of Accidents in Air, Rail and Water Transport provided for the establishment of a specialised institution, the Centre for Investigation of Accidents in Transport (the Centre). The Centre has competence in the areas of activity required for the investigation of air traffic accidents over the applicable territory, in accordance with international standards and recommended practice. The Centre is tasked with, inter alia, the development and proposal of policies, programmes, documents, measures and procedures for the improvement of accident research within its areas of competence. In the performance of their professional tasks

when conducting air traffic accident investigations, the Centre's experts are independent of criminal investigations conducted by judicial bodies for the purpose of determining criminal, economic criminal, misdemeanour, disciplinary, civil or other responsibilities.

Year in review

The EU civil aviation regulations are continuously monitored by the CAD to ensure harmonisation with Serbian law. This includes regulating air traffic (as in EU countries), which is required of an EU candidate country.

The key piece of legislation in the field of civil aviation, the Air Transport Law, although originally adopted in 2010, has been amended and supplemented over the years, including in the 2025 Law on Amendments to the Air Transport Law.^[8] Also during 2025, a total of 10 by-laws have already been adopted, representing further harmonisation with the EU regime

Among the by-laws issued by the CAD, the newly adopted Regulation on Air Traffic Controller Licenses, Training Centers and Aeromedical Centers (Official Gazette of the Republic of Serbia, No. 15/25) – applicable as of 1 October 2025 – stands out, through which EU Regulation 2023/893 was implemented as the key document for the licensing of air traffic controllers. Also of fundamental importance is the Regulation on the Certification of Aircraft and Design and Production Organizations (Official Gazette of the Republic of Serbia, No. 49/25), crucial for the recognition of aircraft, production, and design organisation certificates – representing direct harmonisation with EASA Part 21.

In contrast to previous years during the pandemic, Air Serbia transported a respectable 4.44 million passengers^[9] in 2024. At the end of 2023, Etihad Airways sold its share in Air Serbia, with the Serbian government taking full ownership^[10] and effectively maintaining the airline's operational activities thereafter. As a result of all the above, SMATSA also increased^[11] the number of its operations.

With the support of the competent Ministry of Construction, Transport and Infrastructure, the CAD has continued its work on expanding overall cooperation with international and regional civil aviation organisations. In addition, there is active bilateral cooperation and continuity in the signing of air transport agreements, as well as participation in numerous international conferences and projects.

Legal framework for liability

International carriage

The importance of regulating contractual legal relationships and damage caused by air traffic was recognised, and the Kingdom of Yugoslavia was one of the High Contracting Parties to the Warsaw Convention.^[12] Serbia, as a successor of the FRY, accepted the Montreal Convention (1999) a decade later, on 4 April 2010.^[13] By doing this, Serbia replaced the old Warsaw Convention and subsequent protocols with far more sophisticated and internationally uniform legal resolutions related to international air

transport for determining the liability of air carriers and the corresponding compensation for damage to passengers, luggage and cargo. These changes have led to a different, more equitable approach to carriers' liability, with the air carrier becoming liable for death or bodily injury of passengers (two instances). Fairness is reflected in the quicker compensation of damage, which avoids unnecessary and expensive court processes and improves the protection of passengers. All this leads to a balance of the interests of carriers and passengers.

The amendments made to the Law on Amendments to the Obligations and Property and Legal Relations in Air Transport in accordance with the provisions of the 1999 Montreal Convention made concrete improvements in the field of passenger rights, prescribing a procedure on how travellers can enforce their rights. This was also done to comply with the regulations that apply in the EU, including Regulation (EC) No. 261/2004 on common rules in respect of damages and assistance to passengers in the event of denied boarding and flight cancellations or delays of flights, and Regulation (EC) No. 1107/2006 concerning the rights of disabled persons and persons with reduced mobility in air transport. It should be noted here that, since the European Commission already has a draft proposal for amendments to Regulation (EC) No. 261/2004 on air passenger rights (COM(2025) 281 final, 5 June 2025), in accordance with the obligations under the ECAA Agreement, the harmonisation of this legal segment in the Republic of Serbia will only follow subsequently.

Internal and other non-convention carriage

For many years, Serbia has had two basic laws that regulate legal relations concerning aviation and air traffic. They are the Air Transport Law^[14] and the Law on Obligations and Basic Property Relations in Air Transport Law on Obligations and the Basics of Property Relations in Air Transport.^[15] The Air Transport Law regulates the public air transport sector. It is based on the provisions of the Chicago Convention and prescribes the jurisdiction of the Serbian authorities to act in aviation matters. It also empowers the CAD to issue by-laws and other documents that fully regulate air transport.

Since its first issuance in 2010, the Air Transport Law has undergone eight amendments. The most recent, adopted in 2025 (Official Gazette of the Republic of Serbia, No. 19/25), introduced further legislative updates, while the 2020 amendment (Official Gazette of the Republic of Serbia, No. 9/20) specifically strengthened the provisions on aviation security and security vetting.

The Law on Obligations and Basic Property Relations in Air Transport has, since 2011, dealt with private law matters in aviation and includes a number of original provisions as well as mirroring provisions found in foreign legislation and in the Montreal Convention 1999. This legislation governs the relationships of obligations within air traffic concerning various contracts involving the transportation of passengers, luggage, and belongings. It also covers contracts pertaining to other commercial activities in air traffic, aircraft lease agreements, air traffic insurance contracts, and the relationships that arise when an aircraft causes damage to third parties and ground property while in flight.

Furthermore, the law encompasses ownership and legal relationships regarding aircraft, including ownership rights and liens on the aircraft, procedures for enforcement and security concerning the aircraft, and the jurisdiction of courts concerning enforcement and security matters.

General aviation regulation

Any air transport for commercial or non-commercial purposes is subject to the Air Transport Law, under Article 74. However, any type of flying is subject to the 'Rules of the Air' in Article 4a of the same Law. Serbian airspace is classified into three classes: C, D and G. As determined by the Regulation on Aircraft Operation,^[16] the rules of flight of airplanes carrying out general traffic in Serbian airspace are prescribed, as are the content, manner of submission, modification and closure of flight plans in general air traffic.

With the above-mentioned Regulation and the amendment to the Air Transport Law, Serbia transposed the original provisions of Commission Regulation (EU) No. 923/2012 of 26 September 2012 (SERA), notably Sections 1 to 5, 11 and 12, and Appendices 1 to 3 and 5 of the Annex. However, subsequent EU amendments – including Implementing Regulation (EU) No. 2020/469 and Implementing Regulation (EU) 2024/404, as well as the August 2025 revision of the Easy Access Rules for SERA – have not yet been fully transposed into Serbian law. As part of the ECAA, Serbia is expected to continue the process of harmonisation in the coming period.

The key subjects in Serbian air traffic such as airlines, airport operators, SMATSA as ANSP, aeronautical technical organisations and organisations designated by the CAD are primarily responsible for the safe conduct of their business and services, as well as making sure that employees perform their tasks safely.

Passenger rights

The provisions on the rights of passengers in the event of refusal of boarding, flight cancellation or long delay are dealt with by Article 19 of the Law on Obligations and Basic Property Relations in Air Transport. If an airline that denies boarding, cancels a flight or incurs long delays fails to comply with the legally prescribed procedure, it is necessary to address the passenger aviation authorities and the CAD. The CAD prescribes the procedure for passengers who have been denied rights to file claim forms with the air carrier or the CAD. There are additional documents that clarify the legal provisions of the Law on Obligations and Basic Property Relations in Air Transport. The CAD has issued rules on the rights of passengers in cases of denied boarding, flight cancellations or delays of flights and accommodation in economy class and the rights of passengers with disabilities and reduced mobility. The CAD is competent to supervise and ensure the implementation of the provisions of the Act relating to the right of passengers in denied boarding^[17], cancellation or flight delays or investigate when the provisions have violated the rights of persons with disabilities and reduced mobility.

Other legislation

Travel

In addition to the provisions governing the conditions and manner of planning and development of tourism, and tourist organisations for the promotion of tourism, the Law on Tourism^[18] defines the work of travel agencies and tour operators as being to protect

tourists and users of services of travel agencies. The provisions governing the relationship of each airline and travel agency or operator is determined by Article 2, Paragraphs 1 and 2, and Articles 4 and 7 of the Law on Obligations and Basic Property Relations in Air Transport. These Articles regulate contractual matters in air transport and general conditions of air transport.

Current government recommendations focus on checking travel advisories issued by the Ministry of Foreign Affairs, primarily concerning safety, political stability, or local health requirements in the country of destination.

Environmental

The Air Transport Law, in Section 9, Articles 200 and 203, regulates environmental protection in civil aviation, including the duties of airport operators, permissible noise levels and emissions, noise measurement, and the designation of noise protection areas. In practice, rules related to this topic are largely based on provisions in Directive 2002/49/EC,^[19] as well as Recommendation 2003/613/EC. The Minister of Transport is responsible for enforcing these Directives, with the consent of the Minister of Environmental Protection.^[20]

Serbia is in the process of adopting a regulation on operating restrictions related to airport noise emissions, which will be harmonised with Regulation (EU) No. 598/2014. In addition, the country is expected to align its framework with new EU climate policies under the 'Fit for 55' package, including measures targeting CO₂ reduction and the gradual introduction of sustainable aviation fuels.

When it comes to specific airport operators, environmental issues related to noise in particular have been topical in recent years and this has related primarily to Belgrade Airport. Specifically, Belgrade Airport has recently experienced a significant increase in traffic and has acquired hub status, exceeding the annual of 50,000 operations.^[21] As Belgrade Airport is regulated by European regulations that have been transposed into national frameworks, it is now mandatory to measure noise at the Airport continuously and to develop strategic noise maps.^[22] In addition to the above, Belgrade Airport has joined the Airport Carbon Accreditation (ACA) programme and accordingly has obtained an ACA certificate.^[23]

The CAD's areas of competence include supervising environmental protection activities, especially through the supervision of aircraft airworthiness and airport-related matters. Under the prescribed environmental standards, the CAD has the obligation to provide information within 48 hours if there is a threat to environmental protection in relation to civil aviation.^[24]

Licensing of operations

Licensed activities

The provisions of the law on the licensing of air traffic operations can be found in Chapter V of the Air Transport Law, as well as in the following legislation: the Regulation on the

Conditions for Performing Air Operations^[25] and the Regulation on Operating Licences for the Operation of Commercial Air Transport.^[26] Chapter V of the Air Transport Law defines air traffic and what it includes. Articles 77 to 86 specifically address licensing to carry out commercial air transportation. The CAD is responsible for checking compliance with these legal requirements.

The performance of commercial air transport services in Serbia requires both an air operator certificate (AOC) and an operating licence. Suspension or revocation of the AOC obliges the CAD *ex officio* to suspend or revoke the operating licence. In addition, changes to the AOC may, depending on the circumstances, cause modification of the operating licence.

The Regulation on commercial air transport operations and non-commercial operations transposes Commission Regulation (EU) No. 965/2012 laying down technical requirements and administrative procedures in air transport related to air operations pursuant to Regulation (EC) No. 216/2008 of the European Parliament and the Council, as amended,^[27] along with Commission Regulations Nos. 800/2013, 71/2014 and 83/2014.^[28] It is not aligned with the current EASA Basic Regulation 2018/1139.

The certification of operators performing public transport is carried out by the CAD when it is satisfied that the requirements are met. Therefore, the certificate containing the corresponding operational specifications is required. To start the certification process, the operator must submit an application to the CAD containing the following information:

1. official and business name of the applicant, address and address for delivery of mail;
2. description of the proposed activities, including the type and number of aircraft to be used;
3. description of the management system, including organisational structure;
4. the name of the accountable manager;
5. the names of the persons who are required under ORO.AOC.135, Paragraph (a), together with their qualifications and experience in accordance with item ORO.GEN.210;
6. a copy of the operations manual required by ORO.MLR.100; and
7. a statement that the applicant has checked all the documents that have been submitted to the competent authorities and it is determined that it is in compliance with the applicable requirements.

Besides certification, entities must prove to the competent authorities that they comply with the requirements contained in Annex IV of Regulation (EU) No. 216/2008, Annex IV (Part – SAT) and Annex V (Part – SPA) and also have a certificate of airworthiness (COA) in accordance with Regulation (EU) No. 748/2012.

The procedure for issuing the certificate consists of five stages:

1. pre-application phase;
2. request and initial compliance statement;

3. review and evaluation of documentation;
4. audit and demonstrations; and
5. certification.

The operator must make an application to the CAD at least 90 days before the planned start of operations.

The lease agreement requires prior approval by the CAD for each certified aircraft intended for use by the operator. If an aircraft is leased from a third-country operator, there are additional requirements, which differ depending on whether the aircraft takes a wet or a dry lease.

With regard to a wet-lease aircraft from a third-country operator, the initial operator is obliged to provide the CAD with a valid AOC in accordance with ICAO Annex 6, stating that the safety standards of the third-country operator are the same as those in the Regulation on Occurrence Reporting in Civil Aviation,^[29] and that the aircraft has a COA in accordance with ICAO Annex 8. If an operator from Serbia takes a dry-lease aircraft, the operator must demonstrate to the CAD that there are operational requirements that may not be satisfied by the lease of an aircraft registered in the European Union and that the duration of the lease contract does not exceed seven months in any consecutive 12-month period.

In addition to performing commercial traffic, an AOC holder may perform, with aircraft used for public transport, non-commercial flights that are listed in the operations specifications of the aircraft's certificate, on condition that a detailed description of the flight is kept in the operational manual (OM) with a clear indication of any differences between operating procedures that apply when conducting commercial and non-commercial flights.

The operator of public transport must determine the person accountable for the following fields of management and control:

1. flight activities;
2. crew training;
3. ground-based activity; and
4. continued airworthiness in accordance with the Regulation on Occurrence Reporting in Civil Aviation.^[30]

There are specific requirements for using appropriate equipment on the ground, providing operational support in the main base and providing the available workspace. Through checking the OM, the check for minimum reliability of equipment is also performed.

The operator must keep manuals and other required documentation. Delivering operational instructions and other information to the CAD is mandatory. The OM is the most important manual. The competent authority will review the OM and must certify that it has all necessary information to comply with applicable regulations relevant to the performance of public air transport. The operator must maintain the OM as specified in Clause 8.b of Annex IV of Regulation (EC) No. 216/2008.

An air carrier must have an insurance policy that covers events related to the means of transport and staff, and that covers the liability of the airline with regard to third parties.

Regarding financial obligations, all an airline's relevant financial information must be submitted to the CAD. If a change takes place regarding the airline's ownership or management structure, or that affects the business in any way, this must also be registered with the CAD.

Public transport services may not be carried out without an operating licence, in addition to an AOC. To obtain the licence, the subject must pass an initial audit, which is carried out by the CAD. This procedure determines whether the request meets the required conditions. Commercial air transport may be performed by a company that:

1. has its headquarters in Serbia;
2. possesses a valid AOC;
3. owns or holds a dry lease over at least one aircraft;
4. is registered for public air transport as a primary activity;
5. is majority owned by Serbia or a citizen of Serbia and is under its actual control, direct or indirect, if a ratified international agreement provides otherwise;
6. meets the financial requirements prescribed in the Air Transport Law;
7. meets the requirements of the Law on Compulsory Traffic Insurance;
8. has a business reputation; and
9. has an internal organisation that implements the provisions above.

The financial requirements for an operating licence are based on specific periods and amounts of money. The airline must prove its ability to meet its actual and potential obligations within 24 months. In the first three months of the business, it must be able to cover all costs, regardless of operating revenues. For the air carrier to perform regular air traffic, it is necessary to have proof of the paid amount of €400,000 (in dinar equivalent). For chartered air transport, the amount of €200,000 is required.^[31]

One of the conditions for obtaining the operating licence is that the air carrier company or other legal entity has a good reputation. As evidence that the airline has a good reputation, it must be accompanied by confirmation from the competent authorities that there has been no finding of certain criminal offences or prohibited activities, and confirmation that it is not involved in open bankruptcy proceedings or liquidation, or compulsory settlement is completed; confirmation that the entity's business account has not been blocked for six months immediately preceding the date of application; and a certificate of taxes and contributions.

The CAD issues operating licences of an indefinite term and they remain valid provided that the air carrier meets the conditions for its issuance. Thus, the air carrier must be able at any time, at the request of the CAD, to demonstrate that it meets the requirements for the issuance of an operating licence.

By issuing the operating licence, the authority must, after 24 months, check whether the air carrier continues to meet the conditions required for its issuance when there is doubt as to the fulfilment of prescribed conditions. However, if some of the conditions regarding operating licences are no longer fulfilled, the CAD must be approached and the licence

may be suspended or even revoked. The operating licence can in some circumstances be changed at the air carrier's request.

Ownership rules

The CAD must carry out basic checks of the operating licence. Through this procedure, it must be established whether the requirement of majority ownership of Serbia or nationals of Serbia is met, whether it is under the actual control of Serbia or its nationals, directly or indirectly, or whether a ratified international agreement provides otherwise.

Foreign carriers

Based on Article 169, Paragraph 2 of the Air Transport Law, inspection of foreign aircraft is carried out according to procedures and standards specified by the competent authority of the EU. The CAD developed the Regulation on safety assessment of foreign aircraft, which is in compliance with EU regulations, including Regulations Nos. 2111/2005 and 473/2006, and the relevant provisions of the EASA Basic Regulation No. 2018/1139. The CAD is authorised to publish a list of carriers prohibited from flying within the EU.^[32] The list takes over from the Commission Implementing Regulation (EU) No. 2015/2322 of 12 October 2015. There is a list of air carriers that are banned from operating or are subject to operational restrictions within the European Union.^[33]

Safety

Regulating aviation safety remains a major focus of the CAD. Basic provisions on aviation safety are defined in the Air Transport Law, Chapter II, which determines what constitutes safety in aviation and aerospace, and which are the primary entities responsible for the safe conduct of their business or services. To achieve an acceptable level of safety in accordance with the standards and recommended practices in international civil aviation, the government adopted the national safety programme in civil aviation on the proposal of the relevant ministry. The CAD is responsible for the implementation of the national safety programme. In addition, the CAD is obliged to update this programme every two years. Likewise, for the purposes of organisation and coordination of, and recommendations to improve, the safety regime, the government has taken steps towards establishing the National Committee for Safety in Air Transport.^[34]

Every aviation entity must establish a safety management system (SMS). The CAD is responsible for establishing the conditions of the SMS, and a part of these responsibilities is the development of a manual on safety management. In accordance with the SMS, it is mandatory for aviation entities and accountable persons to report every occurrence in civil aviation: accidents, serious incidents and serious accidents. The CAA must apply the personal data protection rules to the data collected from such occurrences. Article 17a of the Air Transport Law provides something new regarding reporting events and perceived mistakes without fear that the perpetrators be punished. This should be the basis for the concept of a 'just culture'.

Each aviation operator, when planning the introduction of functional changes that affect the safe performance of the activity or the provision of services, must notify and get permission from the CAD. To systematically spot the danger and reduce the risk, aviation operators must work to ensure that acceptable levels of safety are met.

To further improve safety in civil aviation, CAD takes into account safety warnings, voluntary event reporting, inspection supervision of domestic entities and safety inspection of foreign air carriers at Serbian airports.

Safety in Serbian aviation is controlled both internally and externally. The European Aviation Safety Agency (EASA), the EU institution responsible for safety in EU air transport, also checks the safety compliance of the CAD and the aviation entities in Serbia. Serbia is not a full member of EASA but has had observer status since 2007. In 2009, EASA began carrying out air traffic checks and overseeing whether regulation is harmonised with EU rules. In 2014, the CAD was rated Category I by the US Federal Aviation Authority's international aviation safety assessment programme.

According to the data provided by the Centre for Investigation of Traffic Accidents, from 2006 to the end of 2024, it investigated 74 accidents and 36 serious incidents and incidents.^[35]

Since the CAD was audited by the ICAO in 2019, when a high compliance level of 93.71 per cent was determined, no further audits have been conducted. In addition, the CAD has been under continuous ICAO monitoring through the continuous monitoring approach (CMA), rather than periodic audits

Insurance

Article 9, Paragraph 1, Items 5 and 11 of the Law on Insurance^[36] refer to non-life insurance, including the insurance of aircraft, insurance covering damage to or loss of aircraft and liability insurance resulting from use of aircraft, which includes responsibility for transport. The Law on Compulsory Insurance in Traffic^[37] stipulates compulsory insurance for aircraft owners against liability for damage caused to third parties and passengers. The Law on Obligations and Basic Property Relations in Air Transport is engaged with insurance in air traffic in a more specific way.

Serbia has acceded to the provisions of the Montreal Convention of 1999 and adopted the Law on Ratification of the Convention for the Unification of Certain Rules for International Carriage by Air of 13 May 2009, which entered into force on 4 April 2010. For this reason, the former Law on Obligations Relations and Basic Property Relations in Air Transport of 1998 was amended in 2011 and 2015. The changes that the Montreal Convention adopted in 1999 in relation to the old Warsaw Convention inevitably affected the provisions concerning insurance of aircraft.

As previously determined, air carriers with a valid operating licence must have adequate insurance in air transport covering liability for damages in accordance with the provisions of the Montreal Convention. Pursuant to Article 4, Paragraph 1, the conditions for the issuance of operating licences are subject to the fulfilment of the requirements relating to insurance provided for in Article 9 of the Regulation on Operating Licences for the Operation of Commercial Air Transport, and Regulation (EC) No. 785/2004. Although

Regulation (EC) No. 785/2004 remains in force, it has been supplemented by Commission Delegated Regulation (EU) No. 2021/2117. The purpose of this supplement is to update the minimum insurance amounts in line with inflation and conversion into special drawing rights (SDR). Accordingly, Serbia is obliged to align these thresholds.

According to the provisions of Article 27 of the Law on Obligations and Basic Property Relations in Air Transport, airlines must be insured up to a level that is adequate so that all persons entitled to compensation receive the full amount. That obligation of insurance is required by Article 4, Paragraph 1, Sub-item 1(h) of European Parliament and Council Regulation (EC) No. 1008/2008 of 24 September 2008 on common rules for the operation of air transport in the Community. Therefore, unless the law governing compulsory traffic insurance provides otherwise, insurance in air transport under the provisions of this law covers the following: aircraft and its equipment, as well as goods to be transported by aircraft; passengers and baggage from the accident; and the owner or user of the aircraft from liability for damage caused to third parties' aircraft on the ground.

In addition to the above, insurance can provide for freight, insurance costs, the expected gain, lien and other rights and material benefits that are available or can reasonably be expected related to air transport and that can be estimated in money.

The contract of insurance in air transport is concluded for a definite period, but it can be concluded for a specific flight. Liability for damage caused by operation of an aircraft on a specific flight can arise when the engine starts for take-off in departure specified in the contract of insurance, up to the moment of stopping the aircraft shortly after landing and shutdown of the engine in the place of destination specified in the contract of insurance.

The insurer will be liable for damage caused directly or indirectly owing to an aircraft fault that affects safe air transport if the insurer knew or should have known about the fault having conducted due diligence and failed to prevent the damage, although it could have done so. A claim under the contract of carriage and recourse claims related to this contract expire within two years.

The law applicable to the contract of insurance in air transport and relations resulting therefrom will be that of the seat (head office) of the insurer under the conditions that:

1. the parties have not expressly determined which law must be applied to the contract, and their intentions on the implementation of a right cannot be determined from the circumstances of the case; and
2. the law whose application the parties have determined not be applied to part of that contract or any relationship for that contract, or just that part of the contract, relatively on the legal relationship of the contract.

The applicable law for insurance contracts relates to the head office of the insurer, granted that the parties did not explicitly determine the right that must be applied to the contract, and their intention to apply a certain right cannot be determined even from the circumstances of the case. This comes with the exception of the relations of insurance contracts in air transport, which shall apply the national law only if all stakeholders in that contract are Serbian nationals with permanent residence in Serbia or legal persons whose seat is in Serbia, and it insures coverage of the objects exposed to risks in the territory of Serbia.

Competition

The signing of the ECAA Agreement introduced a legal framework for further integration in the field of aviation, free access to the European aviation market without any discrimination, and common rules in the fields of safety, security, air traffic management and environmental protection, and also increased the competitiveness of domestic aviation operators and simplified procedures in international air transport.

This allowed an increase in the number of low-cost companies in the market, which has increased competition among carriers. Belgrade Airport has followed this trend, with an increase from 2.2 million passengers in 2006 to over 8.4 million in 2024.^[38] After a change in business model and the introduction of new routes in 2019, Niš Constantine the Great Airport lost almost two-thirds of its entire air traffic in 2020 and 2021. Following the return of passengers in 2022 and 2023, a decrease of 20 per cent in passenger numbers was recorded during 2024, with a total of 357,313.40 passengers.^[39] Flag carrier Air Serbia^[40] and ANSP SMATSA^[41] had a very successful 2024.

EU regulations do not apply directly in Serbia but are supplementarily transposed into national legislation. According to a European Commission report on Serbia's progress towards becoming a member of the EU, it is moderately prepared in the field of competition. Serbian legislation dealing with issues of competitiveness largely corresponds to Article 101 of the Treaty on the Functioning of the European Union (TFEU) on restrictive agreements and Article 102 of the TFEU on the abuse of a dominant position. The Law on Protection of Competition^[42] regulates the protection of competition in the Serbian market to achieve economic progress and improve the welfare of society and especially benefit consumers. This law is based on the EU *acquis communautaire*.

The Commission for Protection of Competition established by this law as a regulatory body must, in accordance with Article 73 of the Stabilisation and Association Agreement with the EU, apply the appropriate criteria resulting from the rules governing competition in the market in the European Union. Merger control rules governing the content and manner of submitting notifications on concentration of previous control of the impact on competition beyond a certain threshold of turnover has also been introduced. By-laws also provide guidance on how to apply the rule of competition, which is also in accordance with current regulations and instructions of the Commission.

Much has been done to the legal framework when it comes to bringing competitiveness into line with the regulations that apply in the EU. Certain shortcomings still exist in the procedural rules. Even certain sectors of the economy are covered here, such as transport and insurance.

Competitiveness in air transport was increased with two key decisions of the government concerning Belgrade Airport and Air Serbia. On 22 March 2018, VINCI Airports and the government signed a 25-year concession contract for Belgrade Airport. The concession agreement covers financing, development, maintenance and management of infrastructure.^[43] Air Serbia was established in 2013 by the government and Etihad Airways, and the initial share ownership ratio of 51:49 was still in place at the end of 2020; however, following an agreement between these two founders, the government has

assumed an ownership share of 83.58 per cent of the airline and Etihad Airways 16.42 per cent.^[44] Air Serbia flies to 89 destinations, which include not only Euro-Mediterranean routes but also flights to North America and China.

Wrongful death

The regulations that regulate wrongful death in aviation matters are the Law of Contract and Torts,^[45] which applies generally, and the Law on Obligations and Basic Property Relations in Air Transport.

Under Article 200 of the Law of Contract and Torts, compensation can be awarded for the death of a close person if the court finds that the circumstances of the case, particularly the intensity and duration of suffering, make it just to award it, irrespective of any material damage caused by the person's absence.

The deceased person's closest relatives (i.e., spouse, children and parents) are entitled to compensation for mental anguish. This compensation may be also awarded to siblings if they shared the same household as the deceased person on a permanent basis. In addition, compensation can be awarded to an extramarital partner if he or she and the deceased shared a household on a permanent basis.

Article 26 of the Law on Obligations and Basic Property Relations in Air Transport incorporates the relevant provisions of the Montreal Convention with respect to air carrier liability. Article 28 of this Law sets out that the amount of compensation for damage caused by passenger death complies with Articles 21 and 22 of the Montreal Convention.

The Act does not define the third parties that can make a claim. Under Article 1, Paragraph 3 of the Law on Obligations and Basic Property Relations in Air Transport, this matter is determined by the general rules of the Law of Contract and Torts,^[46] under which Serbian courts have consistently recognised claims by legally and factually close family members.

Establishing liability and settlement

Procedure

Disputes regarding civil aviation contracts in the Serbian judicial system are heard by the civil courts using the standard civil procedures. On the basis of claims submitted in the proceedings, the court has jurisdiction to decide the limits of the request. The parties may waive their claims, recognise the claim of the opposing party and settle.

Carriers' liability towards passengers and third parties

In the period after Serbia signed the Montreal Convention, the Law on Obligations and the Basics of Property Relations in Air Transport was amended and supplemented by regulations in 2011 and 2015. The 2015 amendments, based on the ECAA Agreement,

established rules guaranteeing certain minimum rights of passengers relating to denied boarding, flight cancellation and flight delays.

Before the amendments, there were certain inconsistencies with the Regulation of the European Parliament and the Council (EC) No. 261/2004, specifically as to the number of passengers' claims being dependent on the length of the flight. The amendment brought the Serbian rules into line with the European Regulation so that the amount of passenger claims relates to flight delay. The amendments also offered passengers a choice between reimbursement and new flights.

Passenger complaints should be submitted to the airline carrier in writing along with supporting evidence. The deadline for submission of claims is no later than 90 days after the flight was scheduled. If the carrier does not accept or fails to respond to the claim, the injured party may report a procedural violation to the CAD. Passengers who file complaints with the CAD are not precluded from filing a concurrent complaint with the competent court. The CAD has begun providing advisory opinions to air passengers, either in writing or by receiving passengers in person at the CAD's offices. The number of inspections and audits carried out by the CAD increases in line with the growth of air traffic. These were part of its regular activities and prescribed responsibilities regarding the implementation of laws and relevant international regulations relating to respect for the rights guaranteed to passengers and persons with disabilities and reduced mobility.

Part II of the Law on Obligations and Basic Property Relations in Air Transport deals with liability. The owner or user of the aircraft (the responsible person) is responsible for the damage an aircraft in flight causes to third parties and things on the ground, including death or bodily injury, except if it proves that there was no direct causation.

Under Article 120 of the Law on Obligations and the Basics of Property Relations in Air Transport, the responsible person is exonerated from liability if it can be proved that the damage resulted from:

1. an action of the injured party or other person who has worked by order of or on behalf of the injured party;
2. an act of a third party; or
3. some circumstances that are outside the aircraft and that could not be predicted in advance, avoided or eliminated.

The responsible person will be partly and proportionately exonerated from liability on proving that the injured party or another acting at the request or on behalf of the injured party contributed to the damage. In the event of illegal use of aircraft for which the responsible person is not to blame, the person who unlawfully seized the aircraft is wholly liable.

In a collision or other air safety-related occurrence involving two or more aircraft, liability is joint and several.

Liability of the responsible person is limited to the value (price) of a new aircraft at the time of the accident, up to the amount of actual damage caused. There are also cases where the responsible person cannot limit liability, primarily when it is proved that the damage

was caused intentionally or by gross negligence. The above liability provisions apply to foreign aircraft on the basis of reciprocity.

Product liability

In recent years, efforts have been made to improve overall consumer rights. The principal law in this area is the Consumer Protection Law.^[47] The provisions of this Act are in line with EU legislation and it contains provisions from 12 EU Directives.^[48] Five regulations have also been issued under the Consumer Protection Act. Overall, these developments represent further improvement of the consumer protection mechanism in Serbia.

Product safety is provided for in the Law on General Product Safety,^[49] and through its related regulations, which mirror the provisions of Directive 2001/95/EC.

The Air Transport Law makes general provisions for aeronautical products, including provisions relating to the design and manufacture of aeronautical products, parts, appliances and equipment, testing of aviation products and error in their design. The Air Transport Law also gives the CAD jurisdiction over control and inspection of these products. Notwithstanding, pursuant to the terms set out in ratified international agreements, EASA can perform checks and issue certificates. Article 258, Item 91 of the Air Transport Law provides for penalties for operators who design or produce aeronautical products, parts, appliances and equipment contrary to the conditions prescribed by the CAD in Article 152, Paragraph 5 of the same Law.

Rules are also set out on the certification of aircraft and other aeronautical products, parts and appliances in the field of airworthiness and environmental protection, and on the issuance of licences for aviation technical organisations to carry out production and design activities.^[50]

Compensation

According to the provisions of the Law of Contract and Torts, regardless of the material damage caused, the court may, if it considers it just, award monetary compensation for non-material damage. Persons entitled to financial compensation in the event of death or severe disability include the closest relatives.

In practice, Serbian civil court judgments have on rare occasions awarded compensation for material and non-material damage. Typically, claims for non-material damage are approximately up to €5,000 and in some cases higher. In practice, Serbian courts tend not to favour parties that submit claims for non-material damage.

Drones

The increasing popularity of drones all over the world has not bypassed Serbia. Every year there is a growing number of both registered drones and people who have passed the exam to use unmanned aircraft.^[51] Their use for governmental, commercial, educational or recreational purposes has increased significantly and therefore so has the number of requests for allocation of airspace where unmanned aircraft can be used. According

to Article 10 of the Air Transport Law, unmanned aircraft, aero-models, missiles and other flying objects can be used for economic, scientific, educational, sports and other purposes provided they do not jeopardise the safety of air traffic. Provisions for the safe use of drones are prescribed by the Regulation on Unmanned Aircraft.^[52] The regulation of unmanned aerial vehicles was originally considered in the Law on Amendments to the Law on Air Traffic,^[53] Article 10 of which defined the term 'unmanned aircraft' for the first time. This has since been replaced by the Regulation on Unmanned Aircraft. In addition, regulation of drones falls within the scope of other legislation, including regulations, decrees, orders, plans and consolidated laws.

To fly a drone, it is necessary to pass an exam set by the CAD to obtain a certificate. For each use of the drone, the operator shall submit a request for the allocation of airspace to the Airspace Military Cell Unit and this request shall be filed no later than five working days before the intended flight of the drone.

Pursuant to Article 16, Paragraph 1 of the Regulation on Unmanned Aircraft,^[54] unmanned aircraft can fly during the day and night. Article 16 also provides that flight at night requires the prior approval of the CAD. The maximum permitted flight altitude of an unmanned aircraft is 100 metres above ground level unless the CAD has approved a flight at a higher altitude, and the maximum permissible horizontal distance between the unmanned aircraft and the person managing it is 500 metres. Greater distances require CAD approval, subject to risk assessment.

Overall, the most common use of unmanned aircraft is for aerial photography. This is not provided for specifically in the Regulation on Unmanned Aircraft but by other regulations, which state that prior consent for filming must be obtained from the minister in charge of the Ministry of Defence.

Pursuant to Article 24, Paragraph 1 of the Regulation on Unmanned Aircraft, it is not possible to fly foreign drones in Serbian airspace without prior permission from the Ministry of Defence.

As drones are divided into four categories (1–4), the procedure is not the same for all types of drone. The least restricted class of unmanned aircraft is category 1, which covers drones with an operating mass of less than 0.9 kilograms.

To fly in Class D Serbian airspace, which extends up to 5 kilometres away from the aerodrome reference point (ARP), the operator must have special permission from the CAD. If the distance from the ARP is greater than 5 kilometres and is located in Class D of Serbian airspace, it is permitted to fly at a height of 30 metres above the ground.

Any violation of the provisions of the Regulation on Unmanned Aircraft entails fines that vary depending on whether it is a legal person (50,000 to 2 million Serbian dinars) or a natural person (50,000 to 500,000 Serbian dinars). If the use of a drone causes harm to or the death of a person, the person who managed the drone will be held criminally liable.

Serbia still applies the regulatory framework for drones based on its national Regulation on Unmanned Aircraft. In view of further alignment, Serbia remains obliged to comply with EU regulations, which require the transposition of Implementing Regulation (EU) No. 2019/947 and Delegated Regulation (EU) No. 2019/945, containing the 'open, specific, and certified' categories.

Voluntary reporting

Regulations regarding voluntary occurrence reporting in civil aviation in Serbia are based primarily on the provisions of Article 17, Paragraph 1 of the Air Transport Law and its implementing regulation^[55]. Serbia is also among the countries that have introduced the system of mandatory occurrence reporting and voluntary reporting. In previous years, the regulation of voluntary reporting on events in civil aviation relied on the previously transposed Directive 2003/42/EC and Commission Regulation (EC) No. 1330/2007. This changed in 2020 with the repeal of Regulation No. 1330/2007 and the adoption of the Regulation on Occurrence Reporting in Civil Aviation and the framework of Regulation (EU) No. 376/2014.

The introduction of Regulation (EU) No. 376/2014 in Serbia continues the process of harmonising EU rules and the Serbian regulations governing this area. In addition to the primary objective of improving overall aviation safety, transposing the Regulation will serve to better regulate the system of voluntary reporting.

The existing rules established by the CAD for voluntary reporting are based on voluntary reporting of actual occurrences, aviation safety-related occurrences or potential harms in this field.

The CAD may not act on a voluntary report to impose any economic, criminal, disciplinary, civil or any other liability. Information about the voluntary report applicant must be protected and can be sent to another person solely on the request of the judicial authorities of Serbia.

Work to encourage and explain the reasons for voluntary reporting and to create a just culture must remain a priority. In this sense, although a just culture has long been recognised in the Serbian aviation community, it has not adequately taken root among aviation professionals out of fear of liability or professional discredit. This will require additional work by the CAD or greater understanding of the matter among the judicial authorities, and efforts are currently underway to improve implementation.

Special considerations

For a certain period, Serbia had no internal air traffic, but that situation has changed in recent years^[56]. A legal framework for making changes in this regard was created through Article 90, Paragraph 7 of the Air Transport Law^[57] and the subsequent passing of a by-law in the form of the Regulation on the conditions for declaring a line in public interest in air traffic.^[58] Public service obligations (PSO) in the air transport sector make it possible to open, and maintain by way of government subsidy, lines that do not meet commercial conditions but that are important for the economic and social development of Serbia. In this way, in addition to connecting Belgrade and Niš as internal air traffic lines, additional international lines have been introduced for the Niš and Kraljevo airports.

The government introduced this possibility in accordance with Article 16 of Council Regulation (EC) No. 1008/2008, which allows EU Member States to maintain lines that are not commercial. Although it is always difficult to strike a balance between the demands

of social needs and the costs required by the PSO, it proved to be a positive experience for Serbia's smaller airports, leading to a decision^[59] to extend the period of validity of government subsidisation to the period from 1 January 2022 to 31 December 2028.

Outlook and conclusions

In addition to the progress of the Serbian aviation authorities in the field of safety, security, safety oversight and inspection, Serbia as an EU candidate strives to keep pace in bringing national regulations in line with changes in EU legislation.

Further harmonisation and convergence with EU civil aviation regulations will lead to an overall rise in standards and safety in Serbian aviation. There has been significant effort in the application of regulations in the field related to civil aviation and this also has implications for other areas, including tourism, insurance and environmental protection.

The CAD is responsible for the implementation of the national programme for civil aviation safety, which involves different methods of gathering data. In March 2019, the CAD was subject to oversight conducted by ICAO experts in an ICAO Coordinated Validation Mission.

Unlike the ICAO audit from 2009, with its numerous findings of non-compliance with ICAO regulations, the 2019 audit results were fairly good. Currently, when considered against the ICAO regulations and the recommended civil aviation system compliance practice level, Serbia is 93.3 per cent compliant and shows indications of continuing improvement. In this regard, further harmonisation with international standards and recommended practice is expected.

The combined efforts in regulatory alignment, increased transparency in operations, safety enhancements, and operational recovery reflect a robust outlook for Serbian civil aviation.

Endnotes

- 1 On 21 February 1913, Serbia enacted the Regulation of the Transportation System of Devices That Run in the Air, and became the sixth country in the world to implement a legal framework governing civil aviation.
[^ Back to section](#)
- 2 Security Council resolutions of the United Nations Code 777 (1992) of 19 September, the UN General Assembly of the United Nations A/47/1 of 22 September 1992. [^ Back to section](#)
- 3 As a Member State of the Federal Republic of Yugoslavia (FRY) Serbia ratified the Chicago Convention on 14 December 2000, with effect from 13 January 2001. Serbia subsequently advised ICAO on 13 July 2006 that the country would continue to exercise its rights and honour its commitments deriving from international treaties concluded by FRY. [^ Back to section](#)

- 4 SMATSA Air Navigation Service Provider is unique in Europe as a joint venture in charge of controlling air traffic in the two states Serbia and Montenegro, established by the governments of the two countries. [^ Back to section](#)

- 5 Although this legal instrument is not formally recognised in the legislation of Serbia, according to the interpretation of the European Commission, the Salzburg decision of May 2006, specifically Point IV, represents the legal basis for the administrative application of the ECAA Agreement. [^ Back to section](#)

- 6 In accordance with Article 16 of Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No. 1290/2013 and (EU) No. 1291/2013. [^ Back to section](#)

- 7 Law on accident investigations for aviation, railways and waterborne transport (Official Gazette of the Republic of Serbia, Nos. 66/15 and 83/18). [^ Back to section](#)

- 8 Official Gazette of the Republic of Serbia', No. 19/25. [^ Back to section](#)

- 9 <https://www.smatrsa.rs/en/about-us/traffic-data/>. [^ Back to section](#)

- 10 Yugoslavia ratified the Convention on 13 February 1933, <https://laws-lois.justice.gc.ca/eng/regulations/SI-85-25/FullText.html>. [^ Back to section](#)

- 11 See <https://cad.gov.rs/lat/vest/11461/republika-srbija-od-4.-aprila-primenjuje-montrealsku-konvenciju>. [^ Back to section](#)

- 12 Air Transport Law (Official Gazette Nos. 73/10, 57/11, 93/12, 45/15, 66/15 – other law 83/18, 9/20, 6/23 and 19/25). [^ Back to section](#)

- 13 Law on Obligations and Basic Property Relations in Air Transport Law on Obligations and the Basics of Property Relations in Air Transport (Official Gazette Nos. 87/11 and 66/15). [^ Back to section](#)

- 14 Official Gazette No. 61/15. [^ Back to section](#)

- 15 At the beginning of August 2017, Air Serbia denied the right to board the plane to a 10-year-old autistic boy. After five years of the process in January, a first-degree court verdict was obtained where the higher court ruled that human rights were violated. See <https://nova.rs/vesti/drustvo/autisticni-decak-izbacen-je-sa-leta-er-srbije-posle-pet-godina-njegova-porodica-je-docekala-pravdu/>. [^ Back to section](#)

- 16 Law on Tourism, Official Gazette No. 17/2019. [^ Back to section](#)

- 17 The Ministry performs state administration, stipulated in Article 5a of the Law on Ministries (Official Gazette No. 62/2017). [^ Back to section](#)
- 18 The deadline was originally 30 June 2015 but was extended twice. [^ Back to section](#)
- 19 Informator or radu DCV, p. 94, see <https://cad.gov.rs/upload/Informator%20o%20radu/%20%D0%9E%20%D0%A0%D0%90%D0%94%D0%A3%20%D0%88%D0%A3%D0%9D%202022.pdf>. [^ Back to section](#)
- 20 Regulation on the Conditions for Performing Air Operations (Official Gazette Nos. 9/18, 56/18, 12/19, 3/21, 54/21, 117/21 and 112/22). [^ Back to section](#)
- 21 *Supra* note 12. According to Article 203 of the Air Transport Law, the operator and the airport that, during the previous calendar year, conducted more than 50,000 takeoffs and landings of civil aircraft, is required to provide continuous measurements of noise at the airport and its surroundings. [^ Back to section](#)
- 22 Serbia adopted the newer Regulation (EU) No. 2018/1139, repealing Regulation (EU) No. 216/2008. [^ Back to section](#)
- 23 The application of provision ORO.AOC.110, Paragraph (d), Items 1 and 2, in Annex III of Regulation No. 965/2012, has been suspended pending Serbia's full membership of the EU or the fulfilment of the conditions foreseen by the ECAA Agreement. [^ Back to section](#)
- 24 By introducing the Regulation on Occurrence Reporting in Civil Aviation (Official Gazette No. 142/20), Regulation EU No. 376/2014 is transposed into Serbian legislation and Directive 2003/42/EC is repealed. [^ Back to section](#)
- 25 Official Gazette No. 142/20. [^ Back to section](#)
- 26 Regulation on Operating Licence for the Operation of Commercial Air Transport (Official Gazette Nos. 10/14, 16/15 and 50/18). [^ Back to section](#)
- 27 The list of air carriers that are banned from operating or are subject to operational restrictions within the European Union (Official Gazette No. 12/19). See also https://transport.ec.europa.eu/transport-themes/eu-air-safety-list_en. [^ Back to section](#)
- 28 Official Gazette Nos. 8/18 and 1/20. [^ Back to section](#)
- 29 Decision on the establishing of the National Committee for the Safety of Aircraft (Official Gazette No. 69/15). [^ Back to section](#)
- 30 See <https://cins.gov.rs/nesrece-u-saobracaju/nesrece-u-vazdusnom-saobracaju/>. [^ Back to section](#)
- 31 The Law on Insurance (Official Gazette Nos. 139/14 and 44/2021). [^ Back to section](#)

- 32 Official Gazette Nos. 51/2009, 78/2011, 101/2011, 93/2012 and 7/2013 – decision of the Constitutional Court Article 2, Paragraph 1, Item 3. [^ Back to section](#)
- 33 <https://aero.telegraf.rs/aerodromi/4058992-aerodrom-beograd-zabelezio-pad-broja-putnika-u-januaru-2025-godine>. [^ Back to section](#)
- 34 <https://opensky.rs/aerodromi/aerodrom-nis-zabelezio-357-313-u-2024-godini-i-pad-prometa-od-20/>. [^ Back to section](#)
- 35 *Supra* note 30. [^ Back to section](#)
- 36 The number of IFR flights in 2024 was 975.587, see www.smatasa.rs/data/docs/Informator-o-radu.pdf. [^ Back to section](#)
- 37 The Law on Protection of Competition (Official Gazette Nos. 51/2009 and 95/2013). [^ Back to section](#)
- 38 On 6 June 2023, a new runway began operating at Belgrade Airport. See <https://tangosix.rs/2023/06/06/video-prvo-poletanje-i-sletanje-aviona-er-srbije-na-novu-pistu-aerodroma-nikola-tesla/>. [^ Back to section](#)
- 39 See <https://www.airserbia.com/en/media-news>. [^ Back to section](#)
- 40 See <https://www.airserbia.com/page~823>. [^ Back to section](#)
- 41 Law of Contract and Torts (Official Gazette SFRY Nos. 29/78, 39/85, 45/89 – decision of Constitutional Court of Yugoslavia, and 57/89; Official Gazette FRY No. 31/93 and Official Gazette Serbia and Montenegro No. 1/2003 – Constitutional Charter; and Official Gazette No. 18/2020). [^ Back to section](#)
- 42 Consumer Protection Law (Official Gazette No. 8/2021). [^ Back to section](#)
- 43 On 6 June 2023, a new runway began operating at Belgrade Airport. see <https://tangosix.rs/2023/06/06/video-prvo-poletanje-i-sletanje-aviona-er-srbije-na-novu-pistu-aerodroma-nikola-tesla/>. [^ Back to section](#)
- 44 See www.airserbia.com/en/footer_menu/corporate/news/news?id=544. [^ Back to section](#)
- 45 Law of Contract and Torts (Official Gazette SFRY Nos. 29/78, 39/85, 45/89 – decision of Constitutional Court of Yugoslavia, and 57/89; Official Gazette FRY No. 31/93 and Official Gazette Serbia and Montenegro No. 1/2003 – Constitutional Charter; and Official Gazette No. 18/2020). [^ Back to section](#)
- 46 *Id.* [^ Back to section](#)

- 47 Consumer Protection Law (Official Gazette No. 8/2021). [^ Back to section](#)
- 48 Directives 2011/83/EC, 2005/29/EC, 93/13/EEC, 85/374/EEC, 99/44/EC, 90/314/EEC, 2008/122/EC, 98/6/EC, 2013/11/EC, 2009/22/EC, 2002/65/EC and 2006/114/EC. [^ Back to section](#)
- 49 Law on General Product Safety (Official Gazette No. 41/09). [^ Back to section](#)
- 50 Regulation on the Certification of Aircraft and Other Aviation Products, Parts and Appliances and Licensing of Manufacturing and Design Organisations (Official Gazette Nos. 5/18 and 1/19). [^ Back to section](#)
- 51 The number of registered unmanned aircraft is in excess of 500, while the number of persons authorised to operate unmanned aircraft is greater than 5,000. [^ Back to section](#)
- 52 Official Gazette No. 1/20. [^ Back to section](#)
- 53 Law amending the Air Transport Law (Official Gazette of the Republic of Serbia No. 45/15). [^ Back to section](#)
- 54 Official Gazette No. 1/20. [^ Back to section](#)
- 55 Regulation on occurrence reporting in civil aviation (Official Gazette of the Republic of Serbia, No. 142/20) and Regulation amending Regulation on occurrence reporting in civil aviation (Official Gazette of the Republic of Serbia, No. 130/22). [^ Back to section](#)
- 56 After the dissolution of the state union of Serbia and Montenegro in 2006, Serbia had no internal air traffic until 2019, Regulation on the Conditions for the Declaration of a Route of Public Interest in Air Transport (Official Gazette of the Republic of Serbia, No. 6 of 1 February 2019). [^ Back to section](#)
- 57 Law on Amending Air Transport Law (Official Gazette of the Republic of Serbia, No. 83/18). [^ Back to section](#)
- 58 See [Government Decree on requirements for declaring the public service obligation](#) (Official Gazette of the Republic of Serbia, Nos. [6/19](#), [74/19](#) and [123/21](#)); <https://cad.gov.rs/lat/strana/16551/zakon-i-podzakonski-propisi>. [^ Back to section](#)
- 59 05 No. 343-9055/2023-1, dated 12 October 2023. [^ Back to section](#)



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Introduction

Spain is a member of the European Union. As such, the full regulatory body of EU law applies in the country as regards rules on access to, inter alia, markets, slot regulation, competition law, state aid, passenger rights and accident investigation.

The main bodies that regulate aviation in Spain are the Directorate General of Civil Aviation (DGAC) and the Spanish Aviation Safety and Security Agency (AESA), both under the umbrella of the Ministry for Transportation, Mobility and Urban Agenda. The DGAC is responsible for the preparation of industrial and strategical policies and proposals for the aviation sector, representation and coordination with other public administrations and with the European Union in matters of air transport policy, and approval of aeronautical circulars. AESA has responsibility for exercising inspection and penal authority in civil aviation matters, and it has discretion to approve provisions in matters of aviation safety and passenger protection, among other things.

Unlike other countries, Spain has a dual registration system for aircraft. The Aircraft Matriculation Registry (RMA) falls under the jurisdiction of AESA and is an administrative registry of aircraft but not a registry of title or ownership. It is operator-based. The main effect of registration is that an aircraft is provided with a Spanish registration number (beginning with the letters EC, followed by a hyphen and a combination of three further letters – e.g., EC-XXX) and thus becomes a Spanish aircraft. The Central Movable Assets Registry (RBM), under the jurisdiction of the Directorate General of Legal Safety and Public Faith, which in turn pertains to the Ministry of Justice, is a register of title, ownership and encumbrances over movable assets, including aircraft. The main effect of registration is that evidence is provided in respect of the status of ownership and liens over assets. With some exceptions, most transactions involving Spanish-registered aircraft must be recorded at both the RMA and the RBM.

Year in review

The Spanish Consumer Protection Ministry imposed fines amounting to some €170 million upon five low-cost airlines on the grounds that their cabin baggage policies were in breach of consumer legislation. The fine amounts were calculated taking into account the presumed profits obtained by the airlines. This ministerial decision caught most of the headlines in Spanish media over the last few months and has been strongly resisted by the affected airlines and by industry associations. The decision has come at a time where the European Commission has submitted a proposal for a revision of Regulation 261/2004, which if approved would support the position of the airlines. The matter is under judicial scrutiny and might be brought to the European Court of Justice due to potential conflicts with EU law.

Legal framework for liability

International carriage

Spain is a state party to the following air law treaties (all in effect), among others:

1. the Warsaw Convention 1929 (as subsequently amended by the Montreal and Hague Protocols);
2. the Rome Convention 1933;
3. the Chicago Convention 1944;
4. the Rome Convention 1952;
5. the Hague Convention 1970;
6. the Montreal Convention 1971;
7. the Montreal Convention 1999; and
8. the Cape Town Convention 2001.

In accordance with Article 94 of the Spanish Constitution, once an international treaty has been approved by Parliament, ratified by the King and published in the State Official Gazette, it enjoys a higher hierarchical status than domestic legislation; consequently, its provisions prevail over any conflicting internal rules or provisions. Spanish judges regularly apply international treaties when those are applicable.

Of course, the full body of EU legislation on air carrier liability applies in Spain, such as Regulation (EC) 2027/97, as amended by Regulation (EC) 889/2002 and Council Decision 2001/539/EC.

In addition to EU legislation and to international treaties to which Spain is a party, the main Spanish domestic provisions applicable to aviation are:

1. the 1954 Act on Pledges over Movable Assets and Mortgage without Displacement;
2. the 1960 Air Navigation Act;
3. Act 28/1988 on Instalment Sales of Movable Assets;
4. the Air Safety Act 21/2003; and
5. Royal Decree 384/2015, governing the granting of registration marks.

Internal and other non-convention carriage

Since Regulation (EC) 889/2002 extended the applicability of the Montreal Convention to all intra-European flights, the principles laid out in the Montreal Convention are also in force in respect of purely Spanish domestic flights.

Spain is a state signatory to the 1952 Rome Convention on Damage Caused by Foreign Aircraft to Third Parties on the Surface, which came into force in 1958. The Convention's aim is to ensure adequate compensation for persons who suffer damage caused on the surface by foreign aircraft, while limiting in a reasonable manner the extent of liabilities incurred for this damage in order not to hinder the development of international civil air

transport. The 1952 Convention embraced the principles of the 1933 Convention but raised the liability limits.

From a domestic perspective, the 1960 Air Navigation Act also includes provisions to regulate carriers' liability for surface damage and basically follows the principles of the 1952 Rome Convention, although over the years the liability limits have been raised as well. Furthermore, in line with EU legislation, the Air Navigation Act expressly prevents carriers from using Spanish airspace if they cannot prove that they have insurance coverage for this specific type of damage.

General aviation regulation

The general provisions relating to the liability of air carriers in commercial operations apply to civil aviation aircraft as well. Given the very nature of civil aviation, the chances of purely domestic accidents (and therefore applicability of the 1960 Air Navigation Act) are higher, although the EU legal framework generally makes no distinction in this respect.

Passenger rights

As part of the European Union, Spain applies the entire set of European legislation, directives and guidelines relating to the protection of passengers, along with the provisions contained in international treaties such as the 1999 Montreal Convention where applicable. The provisions of Regulation 261/2004,^[1] establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, are fully applicable in Spain and AESA and the Spanish courts regularly enforce this body of law.

From a purely domestic perspective, Spanish consumer protection laws are embodied mainly in Royal Legislative Decree 1/2007 on the Protection of Consumers and Users and apply to all transactions considered to be consumer transactions. Thus, to the extent that an airport operator engages in this kind of transaction, it will be caught by this legislation. Given the Spanish constitutional system, certain regions have issued their own consumer protection laws, which prevail over Royal Legislative Decree 1/2007 in their respective geographical areas. Finally, the domestic consumer protection rules are generally applied and interpreted by the courts of justice to afford the broadest possible protection to air passengers. In 2022, an alternative dispute resolution system for passenger claims under Regulation 261/2004 was approved through Order TMA/201/2022, with AESA (i.e., the national enforcement body) acting as arbitrator. The new mechanism was implemented at the start of the summer 2023 season.

Other legislation

As a civil law country, the general principles of liability in Spain are set out in the Civil Code, which is a fault-based system. However, like many other countries, and particularly since its accession to the European Community, Spain has implemented liability principles in areas such as liability for defective products or product liability, direct engagement in anticompetitive behaviours, quasi-objective liability in environmental matters, direct criminal liability of company directors or officers in relation to corporate crimes, and it has widened the scope of criminal liability in private and public corruption cases. Notably, the

2015 Package Travel Directive has also been implemented in Spain through the addition of a full chapter devoted to this type of agreement in the General Act on Protection of Consumers and Users.

Licensing of operations

Licensed activities

Intra-EU routes are, in general terms, automatically authorised pursuant to Regulation 1008/2008, so that no specific commercial licences must be obtained. As an exception, certain routes classified as being of public interest, as well as operations between the Canary Islands and Gibraltar, are subject to certain restrictions.

To operate extra-EU routes commercially, community carriers must ask AESA to issue the relevant air traffic licence. Normally this will require the existence of an air transport agreement between Spain or the European Union and the country in question. Most of these agreements require the airlines chosen to operate the air services to have been formally designated by the Spanish aeronautical authority. Airlines from third countries also have to be designated by their respective aviation authorities and, before performing any scheduled flights, become accredited by AESA in accordance with the requirements set out in Royal Decree 1392/2007.

Non-scheduled commercial operations are subject to different rules under the Chicago Convention 1944. Generally speaking, the Spanish authorities permit such operations by air carriers belonging to signatory states of the Chicago Convention if the state concerned applies a reciprocal treatment to Spanish air carriers.

AESA has published the various procedures and forms of documents (in Spanish and English) on its website.^[2]

Ownership rules

Shortly after Spain's entry into the European Community in 1986, nationality, ownership and control requirements were interpreted as referring to European citizens rather than only Spanish nationals, despite domestic legislation to the contrary. This topic is nowadays covered by the provisions of Regulation 1008/2008 on common rules for the operation of air services. Given the direct applicability of Regulation 1008/2008 in Spain, the requirements are identical to those of other EU Member States. Although the provisions of this Regulation are directly applicable, some follow-up and detailed provisions were approved in Spain, initially through the Ministerial Order of 12 March 1998, which was replaced by Order TMA/105/2020. Thus, to the extent that interested parties comply with the requirements of Regulation 1008/2008 (as amended), access to the Spanish market – and thereby to the European Union market – will be granted.

Financial fitness is regulated under Article 5 of Regulation 1008/2008 and basically requires that applicants provide evidence that they can meet their financial obligations for a period of 24 months from the start of operations and their fixed and operational costs for a period of three months from the start of operations, without taking into account any

income. Lower thresholds apply to operators with aircraft of less than 10 tonnes maximum takeoff weight or fewer than 20 seats. AESA closely analyses and monitors the business plans submitted by interested parties to ensure that they are realistic and in line with the Regulation. AESA pays particular regard to past experiences where financial troubles have led to the demise of a number of Spanish airlines.

The ownership provisions of Regulation 1008/2008 became the subject of intense scrutiny within the context of the United Kingdom's exit from the EU. In June 2016, AESA published certain interpretative criteria relating to the phrase 'ownership and control', which must, however, be read in connection with the Interpretative Guidelines published by the European Commission in June 2017 and the Notice to Stakeholders of January 2019. In addition, during the pandemic in 2020, the government introduced certain restrictions on the acquisition of air carriers by non-EU citizens; although of a temporary nature in principle, these restrictions are still in place today.

Foreign carriers

Non-Community carriers must obtain accreditation from AESA before they are allowed to start commercial operations to or from Spanish airports. The main provisions on securing this accreditation are found in Royal Decree 1392/2007, and the procedure aims at ensuring the safety of operations, the protection of passenger rights and the protection of the environment. In general terms, applicants have to provide evidence of the following:

1. the airline must be under the supervision of an aeronautical authority of a state party to the 1944 Chicago Convention;
2. the airline must hold an operator's licence that proves its ability to carry out the intended operations;
3. the fleet to be used for the Spanish operations must be registered with a state party to the Chicago Convention, and must comply with the requirements of the Chicago Convention in matters of airworthiness and noise, and also with Spanish and EU requirements concerning, inter alia, noise, navigation and communications equipment;
4. the airline must have insurance coverage that complies with the terms of Regulation (EC) 785/2004 on insurance requirements for air carriers and aircraft operators;
5. the airline must have in place a security programme approved by its supervisory authority for the prevention of illicit acts of interference; and
6. compliance with any specific requirements contemplated in the applicable air services agreement.

Upon receipt of the application and all required documents, AESA must issue a decision within 40 days. If no decision is made within this period, the application is deemed rejected. All decisions can be appealed with the Secretary General of Transportation and, as indicated above, with the contentious-administrative courts.

Safety

All security standards contained in European legislation and international treaties such as the Chicago Convention are applicable in Spain, chiefly under Regulation (EC) No. 300/2008 on common rules in the field of civil aviation security. To address changes and developments, the government publishes a national programme for aviation security in civil aviation that is updated on a regular basis, most recently in January 2024.

From a domestic perspective, the main provisions are embodied in the Air Safety Act 21/2003 (LSA), although – as with EU legislation – there are detailed regulations in many specific aspects of aviation operations. Air safety is essentially under the control of AESA, although other governmental agencies (such as police bodies) also cooperate with AESA.

The LSA imposes a number of rules that apply to all parties that somehow intervene in aviation, such as, inter alia, personnel, flight schools, aeroclubs, designers, manufacturers, maintenance and service providers, air operators, commercial airlines, aerial works, air navigation service providers, handling agents, airport and aerodrome managers, and passengers. In addition to those general provisions, the LSA then sets out rules that specifically apply to specific participants or categories of participants. The International Civil Aviation Organization (ICAO) definition of general aviation as 'all civil aviation operations other than scheduled air services and non-scheduled air transport operations for remuneration or hire' is also applicable in Spain and is used to distinguish general aviation from commercial and public transport.

In line with ICAO guidelines and EU legislation,^[3] Spain has created the Commission for the Investigation of Accidents and Incidents in Civil Aviation (CIAIAC). Domestic legislation has developed in some detail the international provisions through Royal Decree 389/1998, the 2003 Air Safety Act, Royal Decree 1088/2020 and certain other royal decrees that periodically publish the state programme of operational safety for civil aviation. In line with the legislative framework, the CIAIAC's investigations are exclusively technical in nature, with the ultimate aim of preventing future accidents and incidents, and are not directed towards allocating any kind of liability.

Pursuant to the 2003 Air Safety Act and Royal Decree 389/1998, any person who becomes aware of an accident or incident of civil aviation must immediately report it to the closest authorities, who then must urgently contact the CIAIAC. Obviously, special reporting obligations are imposed upon pilots, operators, aircraft owners, aviation authorities, airport directors, air traffic controllers (ATCs) and all other related services and bodies.

The detailed reporting system is set out in Royal Decree 1088/2020, which applies to all events occurring in the Spanish territory or where Spanish-registered aircraft or aircraft operated by Spanish citizens are involved. All reports are directed to the DGAC, which then coordinates its activities with the CIAIAC and other relevant agencies.

Insurance

The insurance stipulations under Regulation (EC) No. 785/2004 on insurance requirements for air carriers and aircraft operators is fully applicable in Spain. Insurance and reinsurance activities can be carried out in Spain by Spanish entities and also by EU insurance companies, subject to the provisions of Directive 2009/138/EC (as amended) and Spanish

implementing legislation (basically, Act 20/2015). Although the insurance market has been largely liberalised inside the European Union, certain types of risks still must be insured by national insurance companies. Aviation risks of Spanish airlines must still be subject to insurance supplied by Spanish insurance companies, who regularly reinsure the associated risks in the international markets. Article 78 of the Act 50/1980 on Insurance Contracts states that an insured party cannot claim directly from the reinsurer any compensation or require any other duty to be performed by the reinsurer. Thus, in principle, cut-through clauses are not directly enforceable in Spain if the relevant insurance contracts are subject to Spanish law. However, Article 107 of the same Act expressly allows accession to foreign laws for aircraft insurance. Therefore, the validity of a cut-through clause will depend on the choice-of-law clause in the lessee's insurance contracts. Nevertheless, some legal scholars still consider this type of clause to be unenforceable in Spain according to a literal interpretation of Article 107.

Competition

There are no specific regulations or policy in Spain concerning airline access or competition, since all these matters are to be handled in line with EU policies and rules. No domestic sector-specific competition rules have been published, but, given Spain's membership of the European Union, Spanish competition authorities are bound by and follow the legislation and guidelines that emanate from the EU. These are extensive as far as the aviation industry is concerned and focus mostly on state subsidies, concentrations of undertakings and fostering free competition.

The main body in charge of supervising competition rules in Spain is the National Commission for Markets and Competition (CNMC), which has jurisdiction over all economic areas. However, the CNMC is organised internally into various directorates, one of which is specifically in charge of transportation matters.

The CNMC follows in general terms the definitions, methods and criteria established by the European competition authorities, including the European Court of Justice, to define the relevant market. Since most of the transactions of the aviation industry have an EU dimension, they are ordinarily assessed by the European Commission rather than the Spanish authority.

It is difficult to provide a general rule in this connection, because the criteria depend on the type of transaction under analysis. When it comes to the review of potential state subsidies or actions against free competition, the criteria are fixed and assessed on a case-by-case basis taking into account existing precedents and guidelines.

When it comes to concentrations of undertakings, such as mergers between enterprises and company acquisitions, Spanish domestic competition legislation provides more detailed thresholds. Economic concentrations are governed by the 2007 Competition Defence Act when they fall outside the thresholds of the EU Merger Control Regulation 139/2004. Mergers are defined broadly, and include the actual merger of two or more previously independent companies, the acquisition of control over an undertaking by another, the creation of a joint venture or the acquisition of joint control over an undertaking. As a general rule, concentrations of undertakings must be notified to the CNMC to obtain approval when, as a consequence of the transaction, a share of 30 per cent

or more is acquired in the relevant market. This market can be either the entire territory of Spain or a smaller, geographically defined market (e.g., a certain region). A communication is also mandatory when the turnover of the participants in Spain exceeds €240 million and at least one of them has a turnover of more than €60 million. However, no notification is needed if the turnover of the acquired company is less than €10 million, unless a market share of 50 per cent or more is achieved (*de minimis* exception).

In merger transactions, the CNMC has a period of one month from receipt of notice to decide whether it wishes to pursue investigations any further (the first phase). If no decision is made within this period, the transaction is deemed to be approved. If the CNMC decides to deepen the analysis, it opens the second phase and then has an additional period of two months to issue a decision. This timing is often extended to take into account delays arising from the receipt of any additionally requested information. A final decision is then taken by the Council of Ministers within one more month.

Spanish domestic legislation essentially mirrors EU legislation as regards the remedies that the CNMC or the courts can impose upon participants in transactions perceived to be in breach of competition rules.

Wrongful death

Spain is a state party to the Warsaw System, the 1999 Montreal Convention and, as a Member State of the European Union, the provisions of Regulation (EC) 2027/97 on air carrier liability are directly applicable by the Spanish courts. Specifically, the EU provisions also apply to domestic air transport when it is performed by Community carriers. Therefore, the domestic regulatory provision contemplated under Articles 92 to 125 of the 1960 Air Navigation Act only comes into play on a residual basis.

The damages awarded by Spanish courts aim at reinstating the injured party into the position it would have been in the event that no damage had been caused. Thus, direct damages for bodily injury and mental distress or moral damage are generally awarded, as well as for indirect damage such as loss of income and similar concepts. Institutions of certain common law countries, such as punitive damages, are not part of the Spanish system, and are sometimes difficult to enforce even if awarded by foreign courts. In addition, the amounts awarded by Spanish courts are often more modest than those that can be obtained in other jurisdictions.

Establishing liability and settlement

Procedure

Liability claims fall, generally speaking, under the jurisdiction of the civil courts in Spain. In this respect, the commercial courts have exclusive jurisdiction in transportation disputes, which means that most actions about passenger claims are discussed in these courts. However, where liability is claimed on the basis of bodily injury or wrongful death, the criminal courts will usually be involved and they also have authority to decide on the civil

law aspects of such claims, such as liable persons, amounts payable as damages and beneficiaries.

There is no fixed rule that can be given as regards the timelines for court actions in Spain. Since Spanish courts are chronically overloaded with work, the duration of claims often takes a long time, particularly in criminal cases. Where only civil matters are being disputed, the parties can spend about 12 months at first instance and, if appeals are made, another six to 18 months should be anticipated. However, this very much depends on the specific court involved and, given the commercial courts' exclusive jurisdiction over transportation disputes, there is a tendency for such matters to be concentrated in a limited number of courts.

In principle, all parties potentially involved as causing the damage or having contributed to the damage can be asked to join the proceedings. Subject to the principles laid down in the Montreal Convention, liability is generally allocated on the basis of the degree of fault or participation of each of the parties involved.

Carriers' liability towards passengers and third parties

As noted above, Spain is a state party to the Warsaw System and the Montreal Convention and subject to EU provisions on air carrier liability, including when domestic air transport is performed by Community carriers. Therefore, the domestic regulatory provision under the 1960 Air Navigation Act only comes into play on a residual basis. The liability system and limits of air operators are thus based on the mechanisms established by these international treaties.

Additionally, certain actions or omissions of carriers could be considered criminal offences under Spanish law. In fact, whenever an accident causes fatalities, a criminal investigation will be opened under the control of the courts to assess whether any criminal liability may exist.

Product liability

Manufacturers' liability is governed in detail under Royal Legislative Decree 1/2007 on the Protection of Consumers and Users, and implements the terms of Directive 85/374/EEC. In general terms, manufacturers are liable for non-conforming products, and the law lists a detailed number of requirements for products to be found conforming. It is also established that, without prejudice to other contractual claims, all persons who suffer damage have a right to be indemnified for the damage caused by goods or services. For the purposes of the Consumer Protection Act, the term 'damage' encompasses personal damage, including death and moral damage, and material damage relating to private goods or services. This liability extends to manufacturers of products and to their importers in the EU, who are jointly and severally liable.

Compensation

As discussed below, Spanish courts award direct and indirect damages but not punitive damages. In accordance with European regulations, air carriers and their insurers are obliged to provide mandatory financial support to the victims of air accidents.

Spanish courts calculate the damages taking into account the specific circumstances of the victims, such as, inter alia, their age, level of income and dependency of family members. The courts often resort to the objective criteria and amounts set out in the 2004 Act on civil liability and insurance for road transport, which, although not directly applicable to air accidents, are often used as a basis for discussion. Recent experience with accidents in commercial flights indicates that compensation ranging between €30,000 and €200,000 is granted.

Drones

Since the entry into force of Regulation (EU) 2019/947, on the rules and procedures for the operation of unmanned aircraft, which took place on 31 December 2020, the legal framework applicable to drone operations in Spain is composed of international conventions and accords, European regulations and directives, and domestic legislation.

At an international level, international conventions such as the Chicago Convention 1944 and the ICAO circulars set out the main rules on how drones must be treated by states.

From the perspective of European Union legislation, the main applicable pieces of legislation are:

1. Regulation (EC) No. 216/2008 of the European Parliament and of the Council, of 20 February 2018;
2. Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency amending, among others, the former one;
3. Regulation (EU) 2019/945 of 12 March 2019 on unmanned aircraft systems and third-country operators of unmanned aircraft systems; and
4. Regulation (EU) 2019/947 of 24 May 2019 on the rules and procedures for the operation of unmanned aircraft.

Additionally, a large amount of acceptable means of compliance and guidance material has been published to accommodate the considerable variety of use of drones and safety and security measures under cover of the AESA's jurisdiction.

Spain also has its own domestic legislation for drones. Initially governed by Royal Decree 1036/2017, nowadays the core legal provision regulating the use of drones is Royal Decree 517/2024, of 4 June 2017, pursuant to which the use of unmanned aerial systems is regulated. This Royal Decree is in line with the new European regulations and further develops some administrative aspects. Certain provisions of the Royal Decree were declared null by a judgment of the Supreme Court in summer 2025, and the Spanish Government is working to resolve the issue. In addition to this core provision, the legal framework governing drones is scattered across various pieces of legislation that are also applicable to the operation developed by these aircraft, such as Royal Decree 384/2015 on the Regulation of the Spanish Civil Aircraft Registry, the 1960 Air Navigation Act, the 2003 Air Safety Act and others.

Voluntary reporting

As indicated in 'Safety', under the 2003 Air Safety Act, any person who becomes aware of an accident or civil aviation incident must report it to the closest authorities. Special reporting obligations are imposed upon pilots, operators, aircraft owners, aviation authorities, airport directors, ATCs and all other related services and bodies. The system ensures the confidentiality of the reports and the reporters, and no cases have been published where someone might have been blamed or punished for complying with his or her legal duty.

Outlook and conclusions

Some months ago the EU Commission published its proposal for the long-awaited review of Regulation 261/2004. Given the many pressures that the approval process is receiving, it remains to be seen if this proposal will be approved.

Within the context of reducing carbon emissions, the Spanish Government has approved, in line with the legislation passed in France, a ban on domestic flights on routes where a reasonable train alternative exists. Although there seems to be public support for this initiative, the industry considers that it will not be of much help in reducing the carbon footprint and urges the government to devote efforts towards building SAF (sustainable aviation fuel) manufacturing facilities in Spain.

Endnotes

- 1 Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No. 295/91. [^ Back to section](#)
- 2 AESA (Spanish Aviation Safety and Security Agency), at www.seguridadaerea.gob.es; see under 'Permisos comerciales'. [^ Back to section](#)
- 3 Mainly embodied in Regulation (EU) No. 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC. [^ Back to section](#)



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Introduction

Switzerland is a democratic state with a modern society and an advanced and open economy. Even though geographically in the centre of Europe, it is not a member of the European Union or the European Economic Area, but of the European Free Trade Association (EFTA). The EU and its Member States are the most important trading partners of Switzerland. Therefore, close cooperation with the EU and its Member States is instrumental for Swiss politics and economy. Cooperation was institutionalised with the bilateral agreements between Switzerland and the EU, which cover various areas, including air transport.^[1]

Aviation plays an important role in Switzerland. Zurich Airport (2024: 31.2 million passengers) is one of the major European airports and a hub for Swiss International Airlines Ltd, the Swiss national carrier that is part of Lufthansa Group and a member of Star Alliance. The two other national airports are those of Geneva (2024: 12.3 million passengers) and Basel-Mulhouse-Freiburg, the trinational EuroAirport on French territory (2024: 8.9 million passengers). These numbers are almost back to pre-covid figures from 2019.

Civil aviation is governed by the Swiss Aviation Act^[2] and numerous implementing ordinances. Switzerland is party to most international treaties in the field of aviation, including the Chicago Convention of 1944, the Geneva Convention of 1948, the Warsaw Convention of 1929 and the Montreal Convention of 1999. Switzerland also signed the Cape Town Convention of 2001; however, it is not yet in force. Based on the EU-CH Agreement on Air Transport, aviation-related EU legislation is also applicable in Switzerland; usually, European law is implemented a few months or years later than in the EU.

Year in review

On 28 August 2024, the Federal Council started the consultation on the revision of the Swiss Aviation Act. Amendments to the criminal jurisdiction in the event of aviation accidents, pilot age, airports, and procurement are envisaged. There were no further developments with a major impact on aviation in 2024.

Legal framework for liability

Liability for carriage is shaped by international law. Switzerland is a party to the Montreal and Warsaw Conventions. Based on the EU-CH Agreement on Air Transport, Regulation (EC) No. 2027/97, as amended by Regulation (EC) No. 889/2002, Regulation (EC) No. 785/2004 and Regulation (EC) No. 261/2004 are applicable also in Switzerland. To the extent liability for carriage does not fall within the scope of these international treaties and EU Regulations, liability has to be determined either based on the Air Transport Ordinance (see below) or in accordance with general legislation on liability.

The Aviation Act contains special provisions for damage caused by aircraft in flight to persons and objects on the ground. Where no special legislation has been adopted, aviation is subject to the same legislation as all other industries.

International carriage

Switzerland is a party to the Warsaw and Montreal Conventions. Based on Regulation (EC) No. 2027/97, as amended by Regulation (EC) No. 889/2002, the liability for international carriage by Swiss or EU carriers for passengers and baggage has to be determined in accordance with the Montreal Convention even if this treaty is not applicable. The carriers are also obligated to make an advance payment as provided by Article 5 of this Regulation. Issues not covered by the Warsaw or Montreal Convention or the Regulation, such as, for instance, the validity of a contract or the calculation of damages, have to be determined in accordance with general contract or tort law.

Internal and other non-convention carriage

Switzerland also implemented the Montreal system of liability into its national legislation by enacting the Air Transport Ordinance^[3] when the Montreal Convention was ratified. The Ordinance applies to certain internal and other flights not covered by international treaties or EU law.

In substance, liability under the Air Transport Ordinance is more or less the same as under the Montreal Convention. However, certain differences exist. In particular, the Ordinance does not stipulate a place of jurisdiction. Therefore, certain actions based on the Ordinance may not be brought before the court at the domicile of the passenger (see Article 33(2) of the Montreal Convention for claims thereunder).

General aviation regulation

Carriage by aircraft for reward as well as carriage by an air transport undertaking (for reward or gratuitous) either fall under the Montreal Convention or the Regulation (EC) No. 2027/97 (international carriage or carriage by an EU carrier), or under the Air Transport Ordinance (national carriage or international carriage not covered by the Montreal Convention or Regulation (EC) No. 2027/97).

In cases of gratuitous carriage by other, non-licensed carriers, the above legal instruments do not apply. Liability has to be determined in accordance with general contract and tort law that is found in the Code of Obligations.^[4] If the flight is a mere courtesy to the passenger, there may be no contract and liability may have to be based on tort.^[5] A reduced standard of care applies, but there is no limitation of the liability amount in statutory provisions. The parties may by agreement limit the liability within the limits provided by the Code of Obligations (in particular, according to Article 100(1) of the Code of Obligations, the exclusion for unlawful intent and gross negligence is deemed void). For this reason, private pilots often require a reward and issue a document of carriage so the Air Transport Ordinance applies.

The above system regarding the liability of carriers to passengers (and transported goods) applies to all types of aircraft, such as aeroplanes, helicopters, airships, balloons, 'ecolight' aircraft, etc.

Further, Article 64 et seq. of the Aviation Act provides for an unlimited strict no-fault liability of the operator for any damage to persons and objects on the ground caused by an aircraft in flight or by any person or object falling therefrom. 'In flight' encompasses, according to Article 64(3) of the Aviation Act, the time from the beginning of the departure manoeuvre until the end of the landing manoeuvre, thus excluding, for example, damage caused during taxiing. In the event of a collision of two or more aircraft, the operators of these aircraft are jointly and severally liable to the claimant (the internal distribution of the damage follows the ordinary rules on recovery between jointly liable parties). The Aviation Act does not provide for an exclusion or reduction of liability if a third party or an act of God was the cause of the accident. However, for damage caused by a person on board the aircraft and not being a crew member, the operator's liability is limited to the minimum insurance to be taken. In the event of an act of terrorism by a person who is not on board the aircraft, it is arguable that, by analogy, the same liability limitation applies.

Passenger rights

Switzerland has not enacted specific legislation concerning passenger rights but, based on the EU-CH Agreement on Air Transport, Regulation (EC) No. 261/2004 is applicable in Switzerland.^[6] According to the introductory comments in the Annex of the Agreement listing the applicable EU Acts, references to EU Member States in such Acts shall, for the purpose of the Agreement, be understood to equally apply to Switzerland, and the term 'Community air carrier' shall include an air carrier having its principal place of business in Switzerland. Further, Article 1(2) of the Agreement provides that Acts mentioned in the Annex of the Agreement shall be interpreted in conformity with decisions of the Court of Justice of the European Union (CJEU) and the European Commission rendered prior to the date of signature of the Agreement (21 June 1999), and decisions rendered after that date shall be communicated to Switzerland and their implications shall be determined by the Joint Committee, which is composed of Swiss and EU representatives to ensure the proper implementation of the EU-CH Agreement on Air Transport. The scope and content of these provisions give rise to several questions; in particular the following.

The EU-CH Agreement on Air Transport grants traffic rights to EU carriers and Swiss carriers between any point in Switzerland and any point in the EU (Article 15 of the Agreement). In particular, this limitation of the territorial scope of the Agreement gives rise to the argument that Regulation (EC) No. 261/2004 is not applicable to flights from Switzerland to a country outside the EU or EFTA. A Basel court declined application to flights to and from third countries. The German Federal Court of Justice, in its decision of 9 April 2013,^[7] submitted this question to the CJEU, but the proceedings were completed without addressing the issue.

Decisions of the CJEU rendered after the adoption of Regulation (EC) No. 261/2004 were not officially communicated to Switzerland for many years. Therefore, the direct application particularly of the following judgments in Switzerland was questionable: *Wallentin-Hermann*,^[8] where the CJEU applied a restrictive interpretation of 'extraordinary circumstances' of Article 5(3) of the Regulation; and *Sturgeon*^[9] and related decisions, in which the CJEU introduced an obligation to pay compensation in the event of a delay

of three hours or more. The Swiss courts were not bound by these decisions, but they were, of course, free to follow them. The District Court of Bulach confirmed this in a decision of 2 February 2016. Based on an interpretation of Regulation (EC) No. 261/2004 in accordance with the standards applicable in Switzerland, the Court held that passengers are not entitled to compensation in the event of delay. Only in 2016 did the EU begin to communicate aviation-related rulings and decisions of the CJEU to Switzerland. However, these rulings and decisions are not published in Switzerland. Although the Federal Office of Civil Aviation (FOCA) provides lists of the rulings and decisions on request, these lists are expressly declared to be non-binding for Swiss authorities and to have no legal effect. Therefore, the question arises as to how a Swiss court is supposed to find out whether a judgment of the CJEU is binding for its own judgment.

Other legislation

The aviation sector is subject to the same general liability rules applicable to all businesses in Switzerland. However, specific provisions for the aviation sector apply based on the EU–CH Agreement on Air Transport. Particularly, EU competition law applies to all cases where trade between the EU and Switzerland may be affected. In addition, product liability law may grant a legal basis for claims against manufacturers or importers of aircraft.

Licensing of operations

Licensed activities

Commercial carriage of passengers or cargo requires a licence from the Swiss civil aviation authority, the Federal Office for Civil Aviation (FOCA).^[10] Air transport is deemed commercial if it is offered to an undefined number of customers and any form of remuneration has to be paid which is designed to cover more than the lease of the aircraft, the fuel and the fees for the ATC and the use of the airport.^[11] All flights of licensed operators are considered commercial.^[12]

Aviation law distinguishes between services provided by national carriers and services provided by foreign carriers. A national carrier may fly within the Swiss territory as well as to and from foreign destinations to the extent permitted under the bilateral agreements of Switzerland with other states. A foreign carrier may serve only the routes between Switzerland and its home state as provided by such bilateral agreements of Switzerland with the home state.

A national carrier must meet the following requirements (Council Regulation (EEC) No. 3922/91).^[13]

1. the undertaking meets the ownership requirements described below under ‘ownership rules’;
2. the undertaking has the technical qualification and organisation required to ensure the safe and, to the extent feasible, ecological operation of aircraft. In particular, it must hold an air operator certificate (AOC) covering the services to be rendered. The

AOC is issued by the FOCA in accordance with the European Operation Regulation and the International Civil Aviation Organization (ICAO) five phases model;

3. the undertaking disposes of the number of aircraft required for the intended use, and such aircraft are registered in Switzerland or in another state that, based on a bilateral agreement, allows use equal to that of the Swiss registration. At least one aircraft must be owned by the undertaking or leased for a period of six or more months;
4. the undertaking has the right to use the airport at the place of operation to the extent required to provide the services;
5. the undertaking has sufficient insurance cover;
6. the aircraft meet the actual technical standards, at least the internationally agreed minimal standards, regarding noise and pollution; and
7. operators of aeroplanes and helicopters are required to introduce and maintain a safety management system in accordance with ICAO Standards and Recommended Practices.

Undertakings that operate balloons, gliders or special categories of aircraft are exempt from some of the above requirements. Special licences may be granted for short-term operations or a limited number of flights.

Pursuant to Article 28 of the Aviation Act, commercial carriage of passengers or cargo on a specific route additionally requires an authorisation by the FOCA. However, this does not apply to destinations in the EU and EFTA. Based on the EU–CH Agreement on Air Transport and Regulation (EC) No. 1008/2008, every Swiss and EU/EFTA carrier may serve any routes between Switzerland on the one hand and EU/EFTA Member States on the other. Swiss carriers may also serve routes between EU/EFTA Member States. The authorisation to serve routes between Switzerland and non-EU/EFTA states on a regular basis is granted to national carriers for a limited period only. The operator requires an operating licence in accordance with Article 27 of the Aviation Act. The FOCA has to take into account the public interest and how the national airports are served. In its application the operator has to submit route plans, timetables, tariffs, information about the aircraft that shall be used, cooperation agreements with other airlines and information about the commercial aspects of the operation. Other airlines that could operate the same route are involved in the proceedings. For its decision, the FOCA will take into account the effect on competition as well as economical and ecological aspects. The maximum term for the authorisation is eight years but it is renewable. The authorisation can be transferred to another operator with the consent of the FOCA.

Ownership rules

A national carrier is a company with a domicile in Switzerland. It must be registered in the Swiss commercial registry, have the objective to commercially operate aircraft and be owned and controlled by a majority of Swiss citizens or companies controlled by a majority of Swiss citizens. The EU–CH Agreement on Air Transport provides, however, that EU and Swiss companies shall be treated alike. This means that a national carrier may also be owned and controlled by a majority of Swiss or EU/EFTA companies or citizens.

This only applies, however, to the relation between Switzerland and EU/EFTA states. With respect to the relationship between Switzerland and non-EU/EFTA states, the respective bilateral agreements with the non-EU/EFTA states define the nationality requirement. While Switzerland favours liberalised definitions that focus on the place of business and also allow ownership and control by foreign individuals or companies, many bilateral agreements rely on traditional strict ownership requirements.

The undertaking must further be economically sound and have a reliable accounting system. The undertaking has to demonstrate that it can likely meet its obligations for a period of 24 months from the start of operations and meet its fixed and operational costs incurred by operations according to its business plan for a period of three months from the start of operations without taking into account any income from its operations.

Foreign carriers

Undertakings with a domicile outside Switzerland that commercially carry passengers or cargo to and from Switzerland require an operating licence unless an international agreement provides for an exemption. Such an exemption can be found in particular in the EU–CH Agreement on Air Transport and the agreement on air transport of the EFTA states.^[14] EU/EFTA operating licences are accepted in Switzerland (as are Swiss operating licences in EU/EFTA Member States).

A non-EU/EFTA undertaking will be granted the operating licence if:

1. it holds a licence of its home state for the international carriage of passengers and cargo;
2. it is under the effective supervision by the authorities of its home state in technical and organisational respects;
3. it can ensure the safe and, to the extent feasible, ecological operation of aircraft in accordance with internationally agreed standards;
4. the grant of licence does not violate essential Swiss interests;
5. the home state of the undertaking grants licences to Swiss carriers to the same extent as Switzerland does to the carriers of such a state;
6. liability for damages on the ground is covered; and
7. there is sufficient insurance cover for other third-party liability.

As national carriers, also foreign carriers, including EU/EFTA carriers, require an authorisation for commercial carriage of passengers or cargo on a specific route to and from non-EU/EFTA states. Such authorisations will be granted in accordance with the bilateral agreements of Switzerland with the non-EU/EFTA states. The FOCA is also free to grant an authorisation if there is no basis in a bilateral agreement.

Safety

Based on the EU–CH Agreement on Air Transport, the EU Regulations on safety are also applicable in Switzerland. The Swiss authorities strive for the highest possible safety standards in accordance with EU legislation and ICAO Standards and Recommended Practices.

Insurance

Based on the EU–CH Agreement on Air Transport, the revised Regulation (EC) No. 785/2004 is also applicable in Switzerland. In accordance with this Regulation, air carriers and aircraft operators flying within, into, out of, or over Swiss territory have to meet the following level of insurance.

Insurance in respect of the operator's liability for damage caused by an aircraft in flight to persons and objects on the ground: the minimum insurance cover depends on the take-off weight. It starts at 750,000 special drawing rights (SDR) for a take-off weight of below 500 kilograms and reaches 700 million SDR for a take-off weight of 500 tons or more. The Swiss authorities may request evidence of compliance in the event of overflights by non-EU/EFTA carriers or aircraft registered outside EU/EFTA as well as with respect to stops by such aircraft for non-traffic purposes.

Insurance in respect of liability for passengers, baggage and cargo: the minimum insurance cover shall be 250,000 SDR per passenger for bodily injury (100,000 SDR in respect of non-commercial operations by aircraft with a minimum take-off weight of 2,700 kilograms or less), 1,288 SDR per passenger for baggage in commercial operations and 22 SDR per kilogram for cargo in commercial operations. These requirements do not apply to flights over Swiss territory carried out by non-EU/EFTA carriers or by operators using aircraft registered outside the territory of the EU/EFTA.

The law does not include any provisions on how the insurance cover has to be evidenced.

Competition

Article 8 et seq. of the EU–CH Agreement on Air Transport prohibits agreements and concerted practices between undertakings with anticompetitive effects as well as the abuse of a dominant position. According to these provisions, such anticompetitive behaviour shall be controlled by the EU institutions in accordance with EU legislation, taking into account the need for close cooperation between EU and Swiss authorities. Only anticompetitive behaviour that exclusively affects trade within Switzerland shall be subject to Swiss law and remain under the competence of the Swiss authorities. Thus, standards of EU competition law apply also in the relation between Switzerland and the EU.

Swiss competition law prohibits agreements or conduct that eliminate or substantially restrict trade without having beneficial economical effects. Heavy fines may be imposed on undertakings – not, however, on individuals – for anticompetitive behaviour. Swiss competition law further provides for a merger control.

Cooperation agreements will usually affect trade in the EU and therefore be controlled by the EU authorities in accordance with EU law. There is no case law as to merely national cooperation agreements concerning aviation.

Wrongful death

In the event of wrongful death, the ensuing expenses, in particular the funeral expenses, shall be compensated (Article 45 of the Code of Obligations). Persons who lose their source of support are entitled to compensation for this loss, including the household damage (i.e., compensation for the loss of the deceased's contribution to the daily chores). Further, persons close to the deceased – spouse, children, parents – are entitled to compensation for pain and suffering (moral damages) up to an amount of 50,000 Swiss francs.

Establishing liability and settlement

Procedure

Usually, in liability cases the parties first try to reach an amicable solution. If the dispute cannot be settled out of court, the claimant may bring an action against the defendants before the competent court. The proceedings are governed by the Civil Procedure Code.^[15]

In principle, the ordinary civil courts are competent for liability disputes. However, before the litigation starts, usually an attempt at conciliation has to be made before a conciliation authority. In the four cantons, Aargau, Berne, Zurich and St Gallen, however, specialised commercial courts are competent to adjudicate commercial cases (e.g., disputes between insurers) if the value in dispute is at least 30,000 Swiss francs. In these cases, voluntary conciliation proceedings can be held. Parties can bring the case before an arbitral tribunal if they have concluded an arbitration agreement.

The limitation periods for bringing the claim to court are part of substantive law. Liability claims under a contract of carriage against the carrier have to be brought within a period of two years from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped (Article 35(1) of the Montreal Convention; Article 14 of the Air Transport Ordinance). This two-year limitation cannot be extended, thus the claim is forfeited if the action is not brought before the expiration of this limitation.

Claims against the operator for personal or property damage on the ground caused by an aircraft in flight have to be brought within three years from the date when the claimant could have knowledge of the damage and the liable party, and in any event no later than 10 years after the accident (20 years in cases of death or personal injury). This statutory limitation period can be waived by the defendant or interrupted by debt enforcement proceedings. In addition, any time limitation may be met by application for conciliation (if applicable), or submission of a statement of claim to a court or arbitral tribunal in due time.

The plaintiff can bring an action for compensation against one or more of jointly and severally liable defendants, for example against the carrier (for breach of contract), against the manufacturer (for product liability) or against a third party (action in tort). There is a direct claim against the liability insurer of the carrier based on Article 60(1^{bis}) of the Insurance Contract Act^[16] if the insurance contract was concluded after 1 January 2022. The plaintiff can choose to sue only one or more of the possible defendants (for a joinder of actions the court must have jurisdiction against all defendants under the applicable jurisdictional provisions). A party (usually the defendant) may notify a third party of the dispute if, in the event of being unsuccessful, the notifying party might take recourse against a third party (third-party notice). In addition, the notifying party may bring an action against the notified third party in the court that is dealing with the main action in the event that the notifying party is unsuccessful (third-party action).

Where two or more parties are jointly and severally liable, recovery can be sought based on Article 50 et seq. of the Code of Obligations. The damage has to be borne first by the party liable in tort, second by the party in breach of contractual obligation and third by the party deemed liable by statutory provision. A recent decision of the Federal Supreme Court and the new Article 95c of the Insurance Contract Act lifted the barriers to recovery by insurers.

Civil litigation may be complemented by criminal prosecution, for example against a pilot for bodily injury caused by negligence, or against any person breaching a generally accepted rule of transportation and endangering persons or goods on the ground (Article 90 of the Aviation Act). Further, criminal sanctions may be imposed on the operator in the event of repeated or serious breach of obligations towards passengers under international treaties (Article 91(4) of the Aviation Act). This provision was adopted in particular to address breaches of Regulation (EC) No. 261/2004. In certain instances, for example, in the event of bodily injury, civil claims may be brought in the criminal proceedings.

Carriers' liability towards passengers and third parties

The court forms its opinion based on its free assessment of the evidence (Article 157 of the Civil Procedure Code). It is up to the parties to present to the court the facts in support of their case and submit the related evidence (Article 55(1) of the Civil Procedure Code). According to Article 8 of the Civil Code,^[17] the burden of proving the existence of an alleged fact rests on the party deriving rights from that fact. Therefore, it is, in principle, up to the plaintiff to assert the relevant facts, and to establish them, so that the court may award compensation.

The liability of carriers under the Montreal Convention and under the Air Transport Ordinance is, in principle, a liability for breach of contractual obligations. The plaintiff has to prove the damage that occurred because of an accident on board or during embarking or disembarking that caused the death or bodily injury of a passenger. The carrier is liable for personal injury of passengers up to the amount of 128,821 SDR (Air Transport Ordinance) or 151,880 SDR (Montreal Convention) irrespective of whether or not the carrier committed a fault. If the plaintiff claims higher compensation, the carrier is liable for damages exceeding the mentioned limits unless it proves that the damage: (1) was not the result of the negligence or other wrongful act or omission of the carrier or its servants or agents; or (2) that such damage was solely the result of the negligence or other wrongful act or omission of a third party.

Claims for damage to persons and objects on the ground caused by an aircraft in flight are based on a strict liability of the operator (no fault of the operator is required).

In principle, Swiss law does not limit the liability.

Product liability

The Swiss Product Liability Act^[18] provides for an extra-contractual strict liability of the manufacturer or importer for damage caused by product defects. The Swiss Product Liability Act is largely in line with the Directive 85/374/EEC of 25 July 1985 concerning liability for defective products.

The Product Liability Act particularly provides for compensation in personal injury cases. The amount of compensation in the event of death or bodily injury and the possible amounts for moral damages are established according to the relevant provisions in the Code of Obligations. Damage to property only entitles the claimant to compensation if the product is ordinarily intended for private use or consumption. The commercial user of an aircraft, for example, is not entitled to bring a claim under the Product Liability Act against the manufacturer or importer of the aircraft. In the event of damage to commercially used products, the claimant may possibly base a claim alternatively on Article 55 of the Code of Obligations (liability of the employer for damage caused by its employees or ancillary staff).

According to Article 7 of the Product Liability Act, several parties liable for a damage caused by a defective product are jointly and severally liable. According to leading authors in Switzerland, the joint and several liability also applies if the other party is liable on a legal basis other than the Product Liability Act. Therefore, in the event of an air accident, the manufacturer and the carrier may be jointly and severally liable. The internal distribution of the damage will be established in accordance with Article 51 of the Code of Obligations.

The statutory limitation for product liability claims is three years from the date when the party suffering harm has or should have knowledge of the damage and the liable party; in any case, the claim expires 10 years after the date when the product was put into circulation (Articles 9 and 10 of the Product Liability Act).

Compensation

In principle, Swiss law requires that the claimant substantiates and proves the damage, the unlawfulness of the damage, a sufficient causal link between damaging conduct and damage, and (if required by the respective legal basis) negligence or other wrongful conduct of the wrongdoer. These requirements will be elaborated in further detail below.

Swiss law is based on the principle that the economic damage has to be compensated, neither more nor less. Compensation will be awarded if and to the extent the unlawful conduct caused a reduction of assets or an increase in debts. Damages, therefore, are established as the difference between the actual financial situation of the claimant as a consequence of the incident on the one hand, and the hypothetical financial situation without the incident on the other hand. In this regard, Swiss law accepts various compensable types of damage. In personal injury cases, damage owing to death or bodily injury includes any financial consequences of the death or injury, for example, funeral costs,

medical costs and loss of income. In addition, reasonable and adequate costs for legal representation have to be compensated. Finally, damage interest of 5 per cent has to be paid for the time between the date when the damage occurred until the date of payment. An abstract loss of use without causing costs, will normally not qualify for compensation. For example, frustration owing to the impossibility of going on vacation does not give rise to a claim for compensation. As an exception to the calculation and compensation of the actual loss or damage, the household damage can be calculated abstractly. Where a person can no longer, or only to a reduced extent, do the household chores because of injury or death, the damage will be established irrespective of whether or not there actually is financial damage. It suffices to establish what a substitute would cost. The household damage is usually calculated based on statistical data with regard to a person of the same gender, similar age and family situation (number of people in the same household) as the deceased or injured.

Liability requires an unlawful act or omission. Any violation of the human body or integrity and any damage to property is unlawful, and all damage that is the consequence of such a violation is to be compensated. The causation of mere financial damage is unlawful only if a contract or a specific legal provision prohibiting such conduct is violated. This distinction may be relevant in cases where a party is only indirectly damaged because of the damage of another party, for example, the employer in the case of bodily injury to its employee, or a creditor in the case of the death of his or her debtor. In principle, the (third) party suffering indirect damage is not entitled to compensation. There is one exception provided in Article 45(3) of the Code of Obligations. Where somebody is deprived of his or her means of support as a result of homicide, he or she is entitled to compensation for that loss. Such damages owing to loss of support are often at stake in cases of death of a passenger in an aircraft accident, particularly for claims of the widow or the widower and the children of the deceased.

In addition, there must be a sufficient causal link between the unlawful conduct and the damage. Acts of God, gross contributory negligence of the injured, or gross contributory negligence of a third party may exclude liability. In the event of contributory negligence of the injured the compensation may be reduced. In cases of strict liability (such as the liability of the operator for damage caused by an aircraft in flight on the ground), even gross negligence of the injured or of third parties does not exclude liability.

In most aviation law cases, the liability of the carrier is irrespective of the question of whether the carrier is at fault. This is certainly true for the claims of the injured based on the strict liability under Article 64 of the Aviation Act. In personal injury cases concerning passengers, the question of fault may (only) be of relevance for damage exceeding the amounts stipulated in Article 21 of the Montreal Convention and Article 7 of the Air Transport Ordinance: (1) if such damage was not the result of the negligence or other wrongful act or omission of the carrier or its servants or agents; or (2) if such damage was solely the result of the negligence or other wrongful act or omission of a third party.

If liability is established according to the above, there may be an additional claim for moral damages. In cases of death or personal injury, the court may award the victim of personal injury or the dependants an appropriate sum. The amounts to be awarded depend on the relevant circumstances in the individual case. In cases of serious bodily injury leading to invalidity, the injured may be entitled to moral damages of up to 200,000 Swiss francs. The next of kin are also entitled to moral damages. For example, a widow may be entitled to

approximately 50,000 Swiss francs in the event of the death of her husband, similarly in the event of serious bodily injury of the husband; a child to 30,000 Swiss francs in the event of the death of the child's father or mother. In addition, unmarried partners are entitled to claim moral damages in the event of the death or serious bodily injury of their partner.

In personal injury cases, there are usually payments of social security institutions. For example, accident insurance pays medical costs, daily allowances in the event of loss of income and a pension if the accident causes permanent incapacity to work. There may be additional payments of the invalidity insurance or (in the event of death) the survivors' insurance. Additionally, the pension fund may make payments to the injured or his or her next of kin. The payments of such institutions have to be deducted from the compensation owed to them by the liable party insofar as they are intended to cover the damage. The social security institutions subrogate into the claims of the insured (or their survivors respectively) up to the amount of the payments made based on social security law. The insured (or their survivors) are only entitled to claim compensation from the liable party for the remaining damage not covered by such social security institutions (the direct damage).

Drones

Since 1 January 2023, Regulations (EU) Nos. 945/2019 and 947/2019 have applied in Switzerland and thus the European rules for the operation, registration and licensing of drones as well as the training and testing required for the operation of drones.

A licence is required for all drones over 25kg and for lighter drones if they are not only used in visual flight or if they are flown more than 120 metres above the ground or over crowds of people.

All drones weighing between 250g and 25kg must be registered, unless a permit is required. Drones weighing up to 250g must be registered if they are equipped with a camera. Apart from this, drones up to 250 g are exempt from the registration requirement. Registration can be carried out on the website of the Federal Office of Civil Aviation (FOCA) – UAS.gate. Online training courses and, in some cases, online examinations must be completed for the operation of drones weighing over 250g.

Irrespective of the registration requirement, drones must have a CE mark and a class marking (C0 - C6). Otherwise, the drone may not be operated. An exception to the CE marking requirement applies to self-built drones. If there is no class marking, a transitional period applied until the end of 2023.

Drones subject to registration are required to take out liability insurance with a minimum sum of 1 million Swiss francs. Those under the age of 12 may only operate them under the supervision of a person aged at least 16. They may only be operated by sight. The maximum flight altitude is 120 metres. During operation, an appropriate distance must be maintained from uninvolved persons, the size of which depends on the sub-category into which the drone falls. Crowds of people may not be flown over. A minimum distance of 5km must be maintained from civil and military airfields. Area restrictions and restricted zones must also be observed.

There are special regulations for model airplanes that are operated as part of a model airplane club or association.

Further information can be found on the FOCA website, including the link to UAS.gate and the federal drone map with the areas in which the operation of drones is restricted.^[19]

Voluntary reporting

Switzerland introduced a system for voluntary reporting in 2011. On 1 April 2016, this system was replaced by Regulations (EU) Nos. 376/2014 and 2015/1018, which are applicable in Switzerland based on the EU–CH Agreement on Air Transport. The Regulations provide for mandatory reporting of occurrences that may present a serious risk, encourage voluntary reporting and protect the information source to some degree.

The website of the FOCA includes comprehensive information and refers to the EASA website for the submission of requests.

Outlook and conclusions

The revised legislation on carbon emissions entered into force on 1 January 2025 and the ReFuelEU Aviation Regulation (EU) No. 2023/2405 will enter into force for Switzerland on 1 January 2026. In 2026, the Federal Council will most likely pass the draft legislation of the revised Aviation Act on to Parliament.

Endnotes

- 1 Agreement between the European Community and the Swiss Confederation on Air Transport of 21 June 1999 (SR 0.748.127.192.68; the EU–CH Agreement on Air Transport). [^] [Back to section](#)
- 2 Federal Act on Aviation of 21 December 1948 (SR 748.0; the Aviation Act). [^] [Back to section](#)
- 3 Ordinance on Air Transport of 17 August 2005 (SR 748.411; the Air Transport Ordinance). The competence to enact such an important piece of legislation in an ordinance (enacted by the governmental body), and not in a federal act (enacted by parliament), is provided for in Article 75 of the Aviation Act. This provision, however, constrains the government to use the applicable international treaties as guidance. [^] [Back to section](#)
- 4 Federal Act on the Amendment of the Swiss Civil Code (Part Five: the Code of Obligations) of 30 March 1911 (SR 220; the Code of Obligations). [^] [Back to section](#)
- 5 BGE 137 III 539. [^] [Back to section](#)
- 6 AS 2006 5987. [^] [Back to section](#)

- 7 Judgment of the Federal Court of Justice of Germany of 9 April 2013, Case X ZR 105/12. [^ Back to section](#)
- 8 Judgment of the CJEU of 22 December 2008, *Wallentin-Hermann v. Alitalia*, Case C-549/07. [^ Back to section](#)
- 9 Judgment of the CJEU of 19 November 2009, *Sturgeon et al. v. Condor et al.*, Joined Cases C/402-07 and C/432-07. [^ Back to section](#)
- 10 Article 27(1) of the Aviation Act. [^ Back to section](#)
- 11 Article 100(1) of the Ordinance on Aviation of 14 November 1973 (SR 748.01; the Aviation Ordinance). [^ Back to section](#)
- 12 Article 100(2) of the Aviation Ordinance. [^ Back to section](#)
- 13 Article 27 of the Aviation Act and Article 103 et seq. of the Aviation Ordinance. [^ Back to section](#)
- 14 Annex Q (Air transport) to the Convention establishing the European Free Trade Association of 4 January 1960 (SR 0.632.31). [^ Back to section](#)
- 15 Swiss Civil Procedure Code of 19 December 2008 (SR 272). [^ Back to section](#)
- 16 Federal Act on Insurance Contracts of 2 April 1908 (SR 221.229.1; Insurance Contract Act). [^ Back to section](#)
- 17 Swiss Civil Code of 10 December 1907 (SR 210). [^ Back to section](#)
- 18 Federal Act on Product Liability of 18 June 1993 (SR 221.112.944; the Product Liability Act). [^ Back to section](#)
- 19 <https://www.bazl.admin.ch/bazl/en/home/drohnen.html>. [^ Back to section](#)



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Türkiye

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Introduction

Civil aviation in Türkiye has undergone major reforms in the past decade, enabling private enterprises to operate scheduled domestic services. Air travel, both domestic and international, has become cheaper and more accessible, resulting in phenomenal traffic growth as more and more people choose it over traditional motor transport. This has also been reinforced by the construction of new airports and the expansion of existing ones in many cities throughout Türkiye. On an international level, Istanbul has become an important hub because of its convenient geographical location at the crossroads of the Commonwealth of Independent States and the Middle East, and has attracted very fast-paced growth in transit traffic.

There are 14 licensed air carriers in Türkiye. The largest operator in the field is the flag carrier Turkish Airlines, which is a state-owned entity. THY has a subsidiary in the low-cost carrier segment, AnadoluJet, which was recently rebranded as AJet. Notable competitors are Pegasus Airlines and SunExpress, which operate both domestic and international scheduled services. Other competitors in the international arena are Corendon Airlines and Freebird Airlines. Tailwind Airlines does not operate scheduled services, but is a niche charter operator for many other air carriers and operators. There are four newcomers in this market segment with smaller fleets. ACT Airlines, MNG Cargo and ULS Cargo are cargo carriers that operate a mix of scheduled and chartered cargo services, and offer cargo capacity on wet lease to other carriers.

Since it was commissioned in October 2018, Istanbul International Airport has won international acclaim and accommodated increased passenger traffic with room to spare. It retains its position in the top 10 busiest airports in the world, with 80 million passengers in 2024. The second largest airport in terms of passenger traffic is Antalya on the Mediterranean coast, where slots are coordinated during the summer season. The bulk of traffic in Antalya comes from tour operators catering to nearby vacation resorts. There are scheduled air services in operation to about 40 airports in Türkiye.

The main regulatory instrument governing civil aviation is the Civil Aviation Act of 1983. This Act touches on all aspects of aviation, such as the regulatory authority, safety, accident investigation, licensing of operators and airports, flight crew licensing, basic principles of flight operations, liability, contracts of carriage by air, property rights and other limited rights *in rem* on aircraft, aircraft registration and insurance. It has recently been amended to accommodate rules on unmanned aerial vehicles.

The regulatory authority for civil aviation is the Directorate General of Civil Aviation (DGCA), which is a department of the Ministry of Transportation, Maritime Affairs and Communication. The DGCA has wide regulatory powers as prescribed in the Civil Aviation Act.

Slot allocation at fully coordinated airports is made under the relevant regulation enacted by the State Airports Administration. The regulation complies with Council Regulation (EEC) No. 95/93 on slot allocation principles.

The high rate of traffic growth makes Türkiye an attractive market for aircraft manufacturers and financial institutions. Türkiye has ratified the Cape Town Convention on International Interests in Mobile Equipment, which is expected to further facilitate leasing

and financing of aircraft. The ratification took effect in December 2011. The primary benefit of the Convention for aircraft lessors is that repossession, deregistration and export of aircraft taken out of lease are now much easier, as they can be performed by the lessor without the requirement for consent from the lessee. Before the ratification, this was a slow and problematic process as it would require a court decision if the lessee objected.

Most of the Turkish civil aviation legislation and regulations are modelled on European Union legislation and, as such, comply with almost all the rules, freedoms and restrictions in effect within the European Union.

Year in review

The past year has set a new record in passenger traffic, which exceeded pre-pandemic highs. Tourism and passenger traffic has been picking up steadily and furloughed crew are now back in high demand.

Growth in cargo traffic in 2024 was a very healthy 31 per cent compared with 2023.

The invasion of Ukraine by Russia in late February 2022 has had a huge worldwide impact on air travel. With the EU sanctions (backed by non-EU countries) in place against Russia, air travel between Russia and Europe is no longer possible. Türkiye, however, has not implemented travel bans and it is possible to fly between Türkiye and Russia. This situation has suddenly spiked demand for international transit travel between Türkiye and Russia, which is good news for Turkish airlines.

Legal framework for liability

Liability of air carriers is regulated by the Civil Aviation Act and international treaties to which Türkiye is a party. International treaties to which Türkiye is a party have the force of law, just as with any other domestic legislation.

International carriage

Türkiye has ratified the 1999 Montreal Convention for Unification of Certain Rules for International Carriage by Air and it became effective in March 2011. The Convention is deemed a part of national legislation and, as such, is applicable to international carriages as defined by the Convention. Previously, Türkiye was a party to the 1929 Warsaw Convention as amended by the Hague Protocol and the Montreal Protocol No. IV.

Internal and other non-convention carriage

Liability of the carrier in domestic or non-convention carriages is subject to the Civil Aviation Act. The carrier is liable for:

1. damage in cases of bodily injury or death of a passenger if the accident causing the injury or death occurred in the aircraft or during boarding or disembarking;

2. damage or loss to registered baggage or cargo if the loss or damage occurred in the aircraft or on the ground at an airport while the baggage or cargo was still in custody of the carrier; and
3. damage resulting from delays in the carriage of passengers, baggage and cargo.

The liability of the carrier is strict liability; in other words, the carrier will be held liable even if it has not acted negligently. On the other hand, the carrier will be relieved from liability if it proves that it has taken all possible measures to prevent the damage from occurring or that it was impossible to take all such measures.

The liability of the carrier is limited unless it is proven that the carrier or its agents acted with the intent of causing damage or recklessly with the knowledge that damage may result. The relevant article of the Act provides that the limit will be determined according to the 1929 Warsaw Convention and other conventions and protocols to which Türkiye is a party. Now that the Warsaw Convention is no longer applicable, this article should now be interpreted as defining the limits according to the 1999 Montreal Convention. The limits have been increased, as effective from 28 December 2024. At the time of writing, the limits were 151,880 special drawing rights (SDRs) for death and injury, 6,303 SDRs for damage arising from delay, 2,858 SDRs for loss of or damage to or delay of baggage, and 26 SDRs per kilogram for cargo.

For the carrier's liability to be limited as provided, the carrier has to issue and submit a ticket bearing the name of the carrier and the passenger, date and place of issue, date and place of departure and destination, the price of the ticket and a statement that liability is limited under the Civil Aviation Act.

Liability of agents and employees of the carrier is also similarly limited where it is proven that they were acting within the scope of their duty.

General aviation regulation

The liability regime for air carriers is also applicable to general aviation operators. There is no distinction between different types of aerial vehicles.

Passenger rights

The DGCA has, within the scope of its mandate and authority, issued a Passenger Rights Regulation, which came into effect on 1 January 2012. This Regulation is very similar to Regulation (EC) No. 261/2004. Under this Regulation, the passenger is entitled to alternative arrangements or predetermined compensation in cases of flight delays, cancellations and denied boarding. Accepting alternative arrangements or getting compensation does not prevent the passenger from seeking further compensation under relevant legislation. Pursuant to a recent amendment, predetermined compensation is now available to passengers who experience a delay of more than four hours. This is likely to increase the number and frequency of compensation claims from airlines.

The most relevant legislation is the Consumer Protection Act. Passengers can seek compensation before consumer arbitration panels for disputes up to a certain value

(approximately US\$3,630 at the time of writing), and before consumer courts for disputes of higher value.

Other legislation

Türkiye has in place legislation governing the protection of competition, protection of the environment, consumer protection, tax laws, corporate governance, labour and social security, and similar laws, which must be observed by all business entities.

Perhaps of higher relevance for airlines, employment and social security law imposes special liabilities on employers on issues of safety, compensation and work-related accidents. Employers have strict liability for any injuries or death of employees in the course of their duty.

Licensing of operations

Licensed activities

Any activity that involves flying an aircraft requires the person or entity operating the flight to have an appropriate aircraft operator's certificate (AOC).

AOCs are issued by the DGCA in accordance with the relevant operator licensing regulations adopted by the DGCA. There are several different categories and subtypes of AOC.

The most stringent licensing requirements are to be found in the Regulation on Commercial Air Carriage Operators, known in the industry as 'SHY-6A'.

Commercial operators are classified as air carriers, non-scheduled-only air carriers, cargo-only air carriers and air taxi operators. There are different minimum capital and fleet requirements for each category. The procedures to apply for and obtain these licences are quite long and onerous. There are stringent requirements for the qualifications and experience of key personnel. The entity applying for an AOC for commercial air carriage is required to demonstrate its financial and operational capabilities for operating commercial aircraft.

The second major category of operators is to be found in the General Aviation Regulation, known as 'SHY-6B'. This was renewed entirely in April 2020. Basically, any type of flight operation that is not commercial carriage of passengers and cargo falls into this category. Major subcategories are flight training, aerial work and amateur aviation activities. Operation of private aircraft also falls within this category, provided that the entity holding the AOC is a shareholder of another entity (or some or all its shares are owned by another entity).

Requirements for obtaining a general aviation AOC are generally much less stringent than for a commercial AOC.

Ownership rules

An aircraft (or other type of aerial vehicle) is deemed a Turkish aircraft if its owner is a Turkish citizen.

Aircraft owned by legal persons other than companies registered in the Turkish Commercial Registry are deemed Turkish aircraft if the majority of the members of its governing body are Turkish citizens. These entities would typically be associations, foundations, trade unions and similar non-profit organisations.

Aircraft owned by Turkish companies are deemed Turkish aircraft if the majority of the persons authorised to direct and represent the company are Turkish citizens, and more than half of the voting shares are owned by Turkish citizens.

Both the Regulation on Commercial Air Carriage Operators and the General Aviation Regulation require applicants to own a minimum number of aircraft registered in Türkiye. This means that any entity or person who wishes to have an AOC in Türkiye is required to fulfil the aforementioned ownership rules.

An aircraft owned by a foreign entity can be temporarily registered in Türkiye and fly the Turkish flag if it has been dry-leased for a period of at least six months to an entity that fulfils the aforementioned nationality requirements. This provision allows Turkish air carriers to acquire aircraft by way of financial or operating leases from aircraft leasing companies.

Foreign carriers

The Civil Aviation Act provides that rules applicable to foreign operators performing air transport services between Türkiye and foreign countries shall be determined by the Ministry of Transportation, taking into consideration bilateral and multilateral treaties to which Türkiye is a party, and also the principle of reciprocity.

In practice, foreign operators are required to obtain flight permits prior to operating flights into or out of Türkiye. Scheduled or charter air services operators can obtain prior permits for each tariff season. Other operators need to apply, preferably five days, in urgent cases at least 48 hours, before the planned flight. The operator must be in possession of an AOC issued by its own state.

Points of contact, required documentation and procedures for obtaining flight permits can be found in the Türkiye aeronautical information publication published and maintained by the State Airports Authority.

Safety

Although Türkiye is not a Member State of the European Union Aviation Safety Agency (EASA), there are technical cooperation and working arrangements between them. Turkish civil aviation regulations are modelled after EASA regulations, and there is a high degree of similarity and compatibility between EASA and Turkish safety regulations.

All operators are required to implement a continuing airworthiness programme in compliance with the Regulation on Continuing Airworthiness and Maintenance Responsibility. This requires operators to put in place and implement a continuous

airworthiness scrutiny and compliance programme. This responsibility can be outsourced to organisations accredited by the DGCA and named as a continuing airworthiness management organisation.

Accident reporting and investigation rules in the Civil Aviation Act are harmonised with the International Civil Aviation Organization standards in Annex 13 to the Convention on International Civil Aviation. Incidents or accidents are investigated by the Transport Safety Investigation Centre, which is a department of the Ministry of Transportation and Infrastructure.

There are several detailed regulations and directives issued by the DGCA concerning safety management, reporting of incidents, ramp checks and similar subjects.

Insurance

The Civil Aviation Act requires all national and foreign operators landing in or departing from Türkiye to carry liability insurance to cover damage that may result from their operations for carriage of passengers, baggage and cargo, and also damage to third persons. The details of mandatory insurance are determined by the DGCA in two separate regulations.

Operators of aircraft registered in Türkiye are required to submit valid policies and policy renewals to the DGCA. The DGCA is authorised to verify the validity of such policies directly with the insurer. Failure to maintain valid insurance will entail grounding of the aircraft. Breach of the requirement for a second time will entail cancellation of the AOC.

Foreign operators are required to submit their valid policy when applying for a flight permit. Non-compliance will result in denial of a flight or landing permit, and grounding if the aircraft is already on the ground in Türkiye.

At the time of writing, the minimum coverage limits for air carriers is 250,000 SDRs for bodily injury and death of passengers. These amounts are lower for light aircraft (maximum takeoff weight of less than 5,700kg) that are not under a commercial AOC and for balloon operators. Minimum coverage for baggage per passenger is 1,131 SDRs, and for cargo per kilogram it is 19 SDRs.

Competition

Competition in Türkiye is governed by the Law on Protection of Competition, which was promulgated in 1994. This Law is quite similar in its philosophy and system to the EU rules on competition.

Infringements of competition law are investigated by the Competition Commission, which has wide powers of investigation and may act on its own initiative or upon complaints. Since the proliferation of private and low-cost carriers within the domestic market, there have been quite a few investigations in the aviation sector. None of them have resulted in spectacular fines, but the state-owned airline, THY, was more frequently investigated than

others, mainly for allegations of abuse of dominant position, predatory pricing and several other acts considered restrictive.

Although to this day no significant decision or fine has been issued by the Commission, the Commission's decisions do point out areas where certain practices may lead to infringements of competition rules. The general stance of the Commission is considered to be fair and equitable to THY's competitor carriers, which probably feel justifiably threatened by THY's historical market dominance.

Wrongful death

Wrongful death entitles close relatives of the deceased person to moral compensation. The magnitude of moral compensation is left to the discretion of the judge. Since there is no explicit and fixed rule in the relevant codes, such as the Code of Obligations, for determining the extent of moral compensation payable upon wrongful death, a comprehensive body of jurisprudence has developed in this respect. The paramount rule that emerges from jurisprudence is that moral compensation should not be so high as to cause an inordinate increase in the wealth of the person receiving it. It is beyond dispute that wrongful death in relation to aviation activities will entitle the claimant to moral compensation. The degree of negligence of the party who caused the death, the nature and degree of the relationship between the claimant and the deceased, the circumstances of the death and other reasonable, relevant factors will affect the level of compensation. Traditionally and culturally, the magnitude of moral compensation awarded in Türkiye used to be very low when compared to European countries and the United States. However, within the past decade, levels of compensation have increased considerably compared with those in earlier decisions of the courts of appeals. It is very difficult to obtain exact figures, but moral compensation of between US\$10,000 and US\$25,000 for spouses and next of kin can be expected in wrongful death claims.

Establishing liability and settlement

Procedure

The customary forum for settlement of disputes is the civil court. Air carriers would invariably be merchants according to the Commercial Code; therefore, the correct court for filing a claim against an air carrier or other commercial operator would be the commercial court. Where the operator is not a merchant, the correct court would be the court of first instance. Arbitration, although available as a forum, is almost never used unless a contract includes an arbitration clause. We have not, to this day, seen or heard of an aviation claim being referred to arbitration.

Mediation has very recently been introduced to the Turkish legal system by way of the Law on Mediation in Civil Disputes, which came into effect in June 2013.

For claims under the Montreal Convention, jurisdiction rules in the Convention will apply. For claims under the Civil Aviation Act, there is no specific provision on jurisdiction. The

general rules of jurisdiction provided in the Code of Civil Procedure will apply. According to these rules the claim can be filed either at the court where the carrier is domiciled or at the place of performance of the contract of carriage. Under Turkish law, the place of performance of a contract of carriage is the place of destination. Claims based on tort can be filed at the domicile of the plaintiff or the place where the tort occurred. The statutory limitation period for claims arising from air carriage is two years starting from the date on which the carriage was or should have been completed. However, in cases involving an accident or incident for which an official investigation report has to be issued, the time limit does not start running until the report is published.

The carrier is primarily liable for compensation, but it is also possible to sue the carrier's employees, although the carrier still has strict liability for the acts or omissions of its employees. Manufacturers are also known to have been joined in liability cases. Regardless of the apportionment of liability between defendants, all the defendants are liable to pay the entire award to the claimant. It is, however, possible for the party who made the payment to have recourse against the other defendants in proportion to the extent of its contribution to the cause of the accident.

Carriers' liability towards passengers and third parties

Liability towards passengers is established according to the Montreal Convention in cases arising from international carriage, and according to the Civil Aviation Act in cases arising from domestic carriage. In both cases, the scope of the carrier's liability against passengers in the event of injury or death is determined according to the Code of Obligations.

Liability for damage to third persons or to property is provided for in the Civil Aviation Act. The rules stipulate that the operator of an aerial vehicle is liable for damage caused to third parties. The registered owner of an aircraft is presumed to be its operator, unless proven otherwise. This liability is strict and unlimited. However, the operator may be relieved from liability in part or in full where it can prove that acts or negligence of the aggrieved party caused or contributed to the damage.

Product liability

Manufacturers of aircraft and aviation equipment may have liability towards passengers if they are found to be negligent in the design or production of their products and this negligence is the main or contributory cause for bodily injury, death or property damage. The legal basis for this liability is the Product Liability Act, which was promulgated in 2020. The scope of damages will be determined according to the Code of Obligations.

Aircraft owners would not be liable against passengers for any defect in the aircraft and equipment that they own unless they are also the operator of the aircraft. The registered owner will be considered the operator of the aircraft unless it is proven otherwise. The burden of proof rests with the owner.

Compensation

According to the Code of Obligations, an injured passenger has the right to be compensated for medical expenses, loss of earnings, loss of or decrease in earning power arising from permanent disability, and losses arising from impairment of economic future.

In cases of death, dependants of the passenger are entitled to compensation for losses arising from deprivation of the financial support of the deceased. If the death does not occur immediately, medical expenses and loss of earnings can also be claimed.

In all cases, the passenger, and relatives of deceased passengers, are entitled to moral compensation. The magnitude of moral compensation is determined by the judge taking into account the circumstances of the case.

The earning power and age of the deceased or permanently injured passenger are the two main factors in calculating material loss. As a very rough rule of thumb, the level of this compensation is the annual income of the passenger, multiplied by his or her statistical life expectancy. Income in this case refers only to income obtained by professional or other work; income from assets is not a factor. In determining annual income, it is not relevant whether the passenger was employed at the time of death. What is important is the average earning power of a person with similar qualifications and profession. Even in the case of illiterate and unemployed persons, the minimum wage is used as the minimum figure for material compensation. As a guideline, the annualised minimum wage in Türkiye is around US\$6,500.

The next important factor is the number and ages of dependants of a deceased passenger. A surviving spouse is entitled to a certain portion of his or her income, and children are entitled up to a certain age. Note that dependants can include siblings, parents or anyone else who, morally and traditionally, can be reasonably expected to enjoy material support from the deceased passenger.

Dependants need not be heirs; this special form of compensation has no relevance to matters and issues concerning inheritance.

Moral damages are a sensitive issue. There are no specific guidelines in the Code of Obligations concerning moral damages. In jurisprudence, it is generally accepted that moral damages should be of such a magnitude as to be sufficient to at least alleviate the suffering and impart a minimal degree of consolation to the aggrieved party. It is said that it should not be so large as to make its recipient rich; nor should it be so high as to financially cripple the liable party. This is a very controversial issue. Moral damages awards are becoming higher and higher in Türkiye, although not nearly as high as in the United States or Europe. As a very basic rule of thumb, it is very unlikely for moral compensation to be any higher than material compensation. In most cases, it would be less than half the material compensation.

All working persons in Türkiye, whether they are employees or independent workers or professionals, are included in the social security system. If the passenger had social security cover, they would be entitled to medical treatment, temporary disability payments and permanent disability benefits if permanently disabled. In cases of death, dependants would be entitled to death benefits, which may be in the form of a pension.

The Social Security Administration has a right of recourse to the carrier or other liable parties for the total or present value of these social security benefits. These amounts are,

however, deducted from the material compensation to be paid by the carrier or other liable parties.

Drones

Article 144 of the Civil Aviation Act as amended in 2016 is the primary regulation on drones. It basically states that companies that sell drones heavier than 500g are required to keep records of persons purchasing drones and to notify these to the DGCA. It also lays down fines to be levied against persons who violate drone regulations. Article 144 authorises the Ministry of the Interior and the Ministry of Transportation and Infrastructure to jointly publish a regulation for details of drone operations.

Based on this authorisation, the operation and licensing of drones, drone pilots and operators is regulated in detail by the Unmanned Aerial Vehicle Systems Directive, which was introduced in 2016. Any unmanned aerial vehicle (except state unmanned aerial vehicles (UAVs) and tethered balloons) heavier than 500g is subject to this regulation.

The Directive is very detailed. Its main features are as follows.

Drones of up to 25kg are required to be notified. Drones heavier than 25kg are subject to registration in the aircraft registry, type certification and airworthiness requirements.

Commercial operators of drones are required to obtain a light UAV operator certificate. There are stringent requirements for the issuance of this licence.

Drones up to 25kg can be operated without a UAV pilot's licence, but these persons are required to notify the DGCA. There is no training requirement for hobby and similar non-commercial operations with these drones. Commercial operators are required to demonstrate that they have obtained training from licensed training organisations. A UAV pilot's licence is required to operate drones heavier than 25kg.

Drone flights are subject to permission. Non-commercial drone flights are issued a permit automatically by the flight permit registration system. There are detailed rules for applying for and issuance of flight permits, and the rules are more stringent for drones heavier than 25kg.

Drones up to 25kg must be operated in visual meteorological conditions at visibility of no less than 2km, no more than 400 feet above ground level and no more than 500 metres laterally away from and within sight of the pilot. Drones heavier than 25kg are considered aircraft operating under visual flight rules and are subject to all relevant flight rules.

The Directive includes liability rules and states that operators are liable for damage caused by drones. However, it is our opinion that liability regimes established by the Code of Obligations and other relevant legislation that have the force of law cannot be changed by a directive. It is difficult to say that a drone operator or pilot can be held liable for damage unless they are proven to be negligent.

Voluntary reporting

Both mandatory and voluntary reporting of safety incidents are regulated by the Directive on Reporting of Civil Aviation Safety Incidents.

The Directive states that all civil aviation personnel must be encouraged to report incidents that may place aircraft, passengers or any other person at risk. It also provides that both mandatory and voluntary reporters shall not be held liable in connection with the reported incident or persons.

The Directive further provides that identities of voluntary reporters shall be kept confidential by the DGCA.

Outlook and conclusions

The DGCA's efforts to streamline regulatory instruments particularly in view of the increasing volume of general aviation operations (aerial work, balloon operations, commercial seaport and seaplane operations) have been remarkably intense especially within the past year, which has been a welcome relief for general aviation operators. Still, capacity-wise there is a long way to go as general aviation operators are increasingly being squeezed out of major airports because of the sheer volume of air carrier traffic.

An important development all sector participants are anxious to see is the passing of an employment law addressing the unique characteristics of the professions that fly for a living. There is a draft bill before the Parliament, but it is not known at this time when it may pass the committees and reach the general assembly. This would certainly be a welcome development both for aviation professionals and for their employers.

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Introduction

The United Kingdom of Great Britain and Northern Ireland (UK) has three constituent legal jurisdictions: England and Wales, Scotland and Northern Ireland.^[1] However, civil aviation is regulated at the national level. The UK government department responsible for civil aviation is the Department for Transport (DfT).^[2] The Secretary of State for Transport (SST), who heads that department, is charged by statute with the general duty of organising, carrying out and encouraging measures for the development of civil aviation; designing, developing and producing civil aircraft; promoting safety and efficiency in the use thereof; researching questions relating to air navigation; and organising, carrying out and encouraging measures for safeguarding the health of persons on board aircraft.^[3] The SST is also charged with carrying out specific duties in furtherance of the interests of air transport users regarding airport operation services.^[4] The SST is given a wide range of statutory powers in relation to the discharge of these duties.^[5]

The principal regulator of civil aviation in the UK is the Civil Aviation Authority (CAA).^[6] It is a statutory body, with its constitution, functions and duties set by the Civil Aviation Acts of 1982 and 2012 as amended (the CA Act 1982 and the CA Act 2012, respectively).

The CAA has a wide remit. Its functions and duties embrace the licensing of air transport and the provision of accommodation in aircraft; the provision of air navigation services; the licensing and economic regulation of aerodromes; the registration of aircraft; the safety of air navigation and aircraft; the health of persons on board aircraft; the control of air traffic; the certification of aircraft operators; the licensing of air crew; and certain responsibilities concerning national security.^[7] The CAA is also designated as the UK body responsible for exercising a number of powers under assimilated EU regulations concerning civil aviation in areas falling within its responsibility. It is given a wide range of statutory powers in relation to the discharge of its duties.^[8]

The CAA has the general objective that it must perform its functions in the manner that it considers best calculated to ensure that British airlines^[9] provide air transport services that satisfy all substantial categories of public demand^[10] at the lowest charges consistent with a high standard of safety in operating the services and an economic return to efficient operators on the sums invested in providing the services, while securing the sound development of the UK's civil air transport industry, and to further the reasonable interests of users of air transport services.^[11]

As a matter of UK law, an international treaty or convention does not have direct domestic effect. Accordingly, even when signed and ratified by the UK, an international treaty or convention will have domestic legal effect only when incorporated into UK law by statute, whether directly or indirectly.

The UK is party to the Chicago Convention on International Civil Aviation 1944.^[12] It is also party to the 'Two Freedoms' agreement of the same date.

The UK ceased to be a Member State of the European Union on 31 January 2020 but continued to apply EU law as if it was a Member State until the end of a transitional implementation period that expired at 11pm (GMT) on 31 December 2020. From that date, the UK has ceased to be subject to EU law. Its relationship with the EU is now contained in the Trade and Cooperation Agreement (TCA) made between the EU and the UK, which

entered into force on a provisional basis on 1 January 2021 and then formally on 1 May 2021.^[13] Part 2, Heading 2, Articles 417 to 458 of the TCA deal with aviation.^[14]

As from the end of the transitional implementation period, the then-existing EU-derived domestic legislation, EU regulations and related jurisprudence of the Court of Justice of the EU (CJEU) became part of the UK's law by reason of the European Union (Withdrawal) Act 2018 (as amended) unless, until or to the extent that the UK decided to legislate to the contrary (but EU law created after that date did not do so). The UK introduced a considerable volume of statutory instruments that amended UK legislation and amended or revoked EU regulations to determine what was retained in UK law from the end of the implementation period, including many relating to aviation. The position has since been further modified by the Retained EU Law (Revocation and Reform) Act 2023. This revoked a significant amount of retained EU law and incorporated all other retained EU law into UK law as 'assimilated law';^[15] it also took away the principle of supremacy of EU law, which had previously applied to retained EU law, and removed the practice of applying EU principles to interpret EU-derived legislation.^[16]

The law relating to aviation in force in the UK is therefore currently to be found in UK statute, secondary legislation made pursuant to such statute (by way of statutory instrument or Order in Council), assimilated EU-derived regulations and related (pre-Brexit) assimilated jurisprudence of the CJEU, as well as the common (i.e., judge-made) law.

The UK is no longer part of the single aviation market for Community air carriers within the EU (as provided for by Regulation (EC) No. 1008/2008). Route access between the UK and the EU is now governed by the TCA. Among other things, this gives UK air carriers^[17] and Community air carriers^[18] the right to fly across the territory of the other party without landing and to make stops for non-traffic purposes to perform point-to-point services between the territories of the two parties, and to carry passengers to two different points in the territory of the other party as part of the same service (i.e., co-terminalisation).^[19] It also gives EU Member States the right to enter into bilateral arrangements with the UK in respect of all cargo services. All other route access to and from the UK is governed by bilateral air services agreements.^[20] The CAA has the task of determining the allocation of scarce capacity on any route that is the subject of any such air services agreement.^[21]

The UK has assimilated EU law on state aid and slots, in both instances with some modification.^[22] As to competition law, see 'Competition'.

The Cape Town Convention 2001 and associated Aircraft Protocol have force of law in the UK in the form of and as provided by the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015.

Year in review

2025 has been an interesting year for aviation in the UK, with various developments of note. Most significantly, the new government's commitment to growing the UK aviation sector has gained momentum, with the approvals of expansion plans for London City and Stansted Airports last year being followed by approval of expansion plans for Luton and Gatwick Airports in the course of this year, the latter involving the significant step of the

opening of a second runway. The UK Government also appears to remain supportive of further expansion at Heathrow.

The UK Government has also announced plans to undertake the largest reform of UK airspace since the 1950s in a bid to support growth, efficiencies and lower environmental emissions.^[23] The project will be led by the newly formed UK Airspace Design Service which will be run by NATS, the UK's leading provider of en-route air traffic control services. The government's focus on promoting innovation and sustainability in aviation has also resulted in a £250m funding boost towards cutting-edge aerospace projects including hydrogen-powered aircraft.^[24] From a legislative perspective, the Sustainable Aviation Fuel Bill was introduced to Parliament this year, aiming to enable a revenue certainty mechanism to support sustainable aviation fuel in the UK.^[25] This bill follows from the Sustainable Aviation Fuels (SAF) Mandate introduced last year.^[26]

The coming into force of the Digital Markets, Competition and Consumers Act 2024 has resulted in certain changes to the role of the CAA as a consumer enforcement body for aviation, drip pricing and market regulation. The CAA has also been appointed as the Market Surveillance Authority for drones, requiring it to ensure that standards for drones are being met by manufacturers, importers and distributors and enforcing compliance with these standards.^[27] As part of its continued focus on innovation, the CAA has also unveiled its AI strategy which largely sets out that it is aiming to utilise the next few years to mature its knowledge on the use of AI in aerospace by working closely with industry and other authorities to forecast the risks emerging from the use of AI.^[28]

In June 2025, the English Commercial Court delivered its much-anticipated judgment in respect of the Russian Aircraft Lessor Policy Claims,^[29] raising a number of new points of law relating to aviation insurance including that sanctions should not prevent insurers from indemnifying lessors for their loss, and that the 'grip of the peril' doctrine was applicable when Russian authorities advised Russian airlines not to return the leased aircraft. The War Risk Insurers' application for permission to appeal this judgment has been denied at first instance, and it remains to be seen whether permission to appeal is sought from and granted by the Court of Appeal and if so, on what grounds.

Lastly, there have been a number of incidents this past year that have tested the operation of aviation law. In March 2025 a substation fire close to London Heathrow Airport resulted in the closure of the airport for an entire day, impacting around 270,000 journeys.^[30] The incident raised various passenger rights issues but also highlighted the one-sided nature of Heathrow's conditions of use which apply to airline users of the airport. On a larger scale, June 2025 saw the crash in Ahmedabad of Air India flight 171 bound for London Gatwick resulting in the death of 52 British passengers, which is the largest UK-related aviation loss for many years.^[31]

Legal framework for liability

International carriage

The UK is party to the Warsaw Convention 1929, Hague Protocol 1955, Montreal Additional Protocols (MAP) Nos. 1 to 4 of 1975, Guadalajara Convention 1961 and Montreal Convention 1999.

The Montreal Convention 1999 currently has force of law in the UK in respect of the liability of a UK air carrier concerning passengers and their baggage by reason of UK Regulation (EU) No. 2027/97 (as amended)^[32] and in respect of any other carriage to which it applies by reason of Section 1 of the Carriage by Air Act 1961 as amended (1961 Act) and Schedule 1B to that Act. The revised liability limits of the Montreal Convention set by the International Civil Aviation Organization (ICAO), with effect from 28 December 2024, have been implemented in the UK as of 7 February 2025.^[33]

Subject to specified defences, it is a criminal offence for a UK air carrier to fail to comply with the tariff requirement contained in Article 3a of UK Regulation (EU) No. 2027/97 or the notification provisions contained in its Article 6.^[34]

It is a general rule of UK law that authorities on the Warsaw Convention 1929 are equally referable to the Montreal Convention 1999.^[35] Further, it is established that where either convention applies, it provides the exclusive causes of action and remedy.^[36]

The Warsaw Convention 1929 as amended at The Hague 1955 (the Warsaw-Hague Convention) has force of law in the UK as set out in Schedule 1 to the 1961 Act, while the Warsaw-Hague Convention as further amended by MAP No. 4 has force of law as set out in Schedule 1A to the same Act. The Guadalajara Convention also continues to have force of law in relation to carriage governed by the latter two Conventions.^[37]

The 1961 Act provides that if more than one of the aforesaid Conventions applies to a carriage by air, then the most recent one has force of law.^[38]

In relation to international carriage to which none of the aforesaid Conventions apply, the Warsaw Convention 1929 as amended by MAP No. 1 and the Guadalajara Convention 1961 continue to have force of law as set out in Schedule 3 to the Carriage by Air (Applications of Provisions) Order 2004 (the 2004 Order), while the Warsaw and Guadalajara Conventions continue to have force of law as set out in Schedule 2 to that Order in relation to carriage to which Schedule 3 does not apply.

The UK is not a party to the Rome Conventions of 1933 or 1952 on surface damage or to the Montreal Protocol of 1978 on that topic. Further, it has yet to even sign the Unlawful Interference Compensation Convention 2009 or the General Risk Convention 2009.

Liability for surface damage is, however, provided for in relation to all carriage (irrespective of whether it is international) by Section 76(2) of the CA Act 1982. It permits damages to be recovered on a strict liability basis for material loss or damage caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from, an aircraft while in flight, taking off or landing (unless the loss or damage was caused, or was contributed to, by the negligence of the person by whom it was suffered), with that liability being on the owner of an aircraft unless it has been bona fide demised, let or hired out for any period exceeding 14 days to any other person by its owner, and no pilot, commander, navigator or operative member of its crew is in the employment of the owner, in which event the liability is on the person to whom the aircraft has been so demised, let or hired out.

Internal and other non-convention carriage

By reason of UK Regulation (EU) No. 2027/97, the liability of a UK air carrier in respect of all passengers and their baggage is governed by the Montreal Convention 1999 for the purposes of English law, regardless of whether the carriage is international or domestic (see 'International carriage').

Any other UK domestic carriage of persons, baggage or cargo performed by an aircraft for reward, or gratuitously by an air transport undertaking, is governed by Schedule 1 to the 2004 Order. This applies a slightly modified version of the Montreal Convention to such carriage. It has been held in relation to its predecessor (which made the same provision in relation to the Warsaw-Hague-MAP No. 4 Convention)^[39] that it applies when the place of departure, place of destination or an agreed stopping place is within the UK or other British territory.^[40]

Where carriage by air falls outside the above provisions (such as gratuitous carriage by a private person), any liability of the carrier in respect of passengers, baggage or cargo will fall to be determined according to the common law – predominantly via the tort of negligence or an express or implied contractual duty of reasonable skill and care. With regard to tortious liability, there is persuasive authority that the maxim *res ipsa loquitur* applies in respect of an air crash against the owner or operator of the aircraft concerned, so as to impose a rebuttable presumption of liability in negligence.^[41]

As to surface damage, see 'International carriage'.

General aviation regulation

The convention-based schemes (as outlined in 'International carriage' and 'Internal and other non-convention carriage') of liability in relation to aircraft have been held to apply to helicopters^[42] and hot-air balloons^[43] but not to a tandem heavier-than-air non-powered paraglider.^[44] Liability in respect of any means of carriage not covered by the convention-based schemes will fall to be determined according to the common law (i.e., the law of contract or tort, or both: in particular, negligence).

As to surface damage, see 'International carriage'.

Passenger rights

Regulation (EC) No. 261/2004 (on denied boarding, cancellation or long delay) has been assimilated in UK law with some modification.^[45] Non-compliance with certain provisions of this Regulation is a criminal offence.^[46] To date, no successful prosecutions have been recorded. However, in its capacity as the UK's national enforcement body for this Regulation, the CAA has undertaken numerous compliance investigations and initiated enforcement proceedings against several air carriers at various times pursuant to Part 8 of the Enterprise Act 2002 resulting in a number of carriers giving formal corrective undertakings,^[47] and in one case in an enforcement order being made.^[48] These powers have been replaced by ones contained in the Digital Markets, Competition and Consumers Act 2024, which came into force in April 2025.

Regulation (EC) No. 1107/2006 (on rights of disabled persons and persons with reduced mobility when travelling by air) has also been assimilated in UK law.^[49] Although a claim by a qualifying person may be made for any infringement of this Regulation, including for compensation for injury to feelings,^[50] no such damages are recoverable where the complaint falls within the scope of the Montreal Convention.^[51]

Directive (EU) 2015/2302 was given effect in the UK pre-Brexit in the form as modified by the Package Travel and Linked Travel Arrangements Regulations 2018 as amended,^[52] which remains in force. These give various rights to consumers in respect of any contract for carriage by air sold or offered for sale with other travel services so as to form a package or linked travel arrangement.^[53] They include information requirements, transferability of bookings, protection against price revision, alterations to essential terms and improper performance, rights of termination and to refund, and protection against insolvency. See further 'Other legislation'.

The UK does not have any other domestic provisions that deal specifically with the rights of air passengers. The general UK statutory consumer protection law is, however, applicable, except where its application to contracts of carriage by air is expressly excluded.

Other legislation

No person may make available in the UK accommodation for the carriage of persons on flights in any part of the world unless they are the operator of the relevant aircraft, are the holder of an air travel organiser's licence (ATOL) granted by the CAA, or are exempt or exempted from the need to hold an ATOL.^[54] Non-compliance with these restrictions is a criminal offence.^[55]

The general provisions of UK law may also give rise to liability. However, no action lies in respect of trespass or nuisance by reason only of the flight of an aircraft over any property at a height above the ground that, having regard to wind, weather and all the circumstances of the case, is reasonable, or the ordinary incidents of such flight, as long as the provisions of any air navigation order and any orders under Section 62 of the CA Act 1982 have been duly complied with.^[56] For these purposes, flight is not restricted to lateral travel from one fixed point to another but rather embraces all movement that takes place between the take-off and landing of an aircraft.^[57]

The UK has stringent anti-bribery rules as contained in the Bribery Act 2010. As to competition law, see 'Competition'. As to product liability law, see 'Product liability'.

Licensing of operations

Licensed activities

A person must not operate an aircraft registered in the UK on a commercial air transport operation other than under and in accordance with the terms of a Part-CAT air operator certificate (AOC)^[58] granted to that person by the CAA.^[59]

To be able to carry passengers, mail or cargo for remuneration or hire, that person will also need a valid operating licence granted by the CAA pursuant to Chapter II of UK Regulation (EU) No. 1008/2008.^[60] This requires, among other things, that its principal place of business is located in the UK^[61] (see further 'Ownership rules').

The operator will further require a route licence granted by the CAA that authorises it to operate aircraft on the flights in question^[62] (the right to do so will also be subject to the availability of traffic rights under any relevant air services agreement with the destination state (see 'Introduction')). In practice, such a licence will allow any operations within the area permitted by the holder's AOC, although it may be subject to restrictions in specific circumstances.

A person must not operate a UK-registered aircraft for the purposes of any public transport^[63] flight other than under and in accordance with a Part-CAT or national AOC granted to that person by the CAA.^[64] Further, unless that person holds a valid operating licence granted pursuant to Chapter II of UK Regulation (EU) No. 1008/2008, any such other carriage for reward of passengers or cargo can be performed only if the operator holds and complies with the terms of an air transport licence granted by the CAA.^[65]

Ownership rules

A UK operating licence (see 'Licensed activities') is not subject to any express ownership rules. However, unless the SST otherwise consents, a route licence can be granted only to a UK national or a body incorporated under the law of a part of the UK or a relevant overseas territory and controlled by UK nationals.^[66]

A UK national AOC is not subject to any express statutory ownership rules. However, unless the SST otherwise consents, an air transport licence can be granted only to a UK national or a body incorporated under the law of a part of the UK or a relevant overseas territory and controlled by UK nationals.^[67]

Foreign carriers

An aircraft registered elsewhere than in the UK must not take on board or discharge any passengers or cargo in the UK where valuable consideration is given or promised for their carriage, unless the operator or charterer of the aircraft, or the government of the country in which the aircraft is registered, has been granted permission to take on board or discharge any passengers or cargo for that purpose by the SST or the CAA, and any conditions to which that permission may be subject are satisfied, or unless an AOC has been issued to the operator of the aircraft pursuant to the Air Navigation (Overseas Territories) Order 2013.^[68]

The decision to grant such permission is normally made by the CAA, but it must take into account any advice given to it by the SST^[69] (including as to circumstances in which the SST expects to determine an application for permission).^[70]

Safety

The Basic Regulation^[71] of the European Aviation Safety Agency (EASA) and its implementing regulations^[72] have been assimilated in UK law with some modification,^[73] with their application being acknowledged and enforced by Air Navigation Order 2016 (as amended) (ANO). Together, these regulate safety in relation to, among other things, airworthiness, flight crew licensing and training, and aircraft operation with regard to EASA aircraft – now known as Part 21 aircraft.^[74] The UK regulation in relation to non-EASA aircraft – now known as non-Part 21 aircraft – is provided for separately in the ANO. The CAA is the relevant UK regulator in both instances.

The ICAO Annex 13 civil aviation safety investigation authority for the UK is the Air Accidents Investigation Branch of the DfT (AAIB).^[75] Its functions, duties and powers are set by a combination of the Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 2018 and UK Regulation (EU) No. 996/2010 (Regulation 996/2010).^[76] All air accidents and serious incidents occurring in or over the UK must be reported to it pursuant to these regulations.

A report of the AAIB is admissible in civil proceedings in England and Wales as evidence of the facts that it states and as expert evidence in relation to the opinion it gives where that is the product of a special expertise that its authors can be taken to or do have, but is not admissible for the opinion it expresses on facts that require no such expertise to evaluate.^[77] In contrast, information and evidence obtained or created in the course of its investigations cannot be disclosed by the AAIB to any other person for purposes other than safety investigation, unless the court orders it to do so upon being satisfied that the benefits of the disclosure for any other purpose permitted by law outweigh the adverse domestic and international impact that an action of this kind may have on that or any future safety investigation.^[78] Although a voice or flight data recorder may be ordered to be disclosed on this basis,^[79] it is almost inconceivable that an order would be made for the disclosure of a statement made to the AAIB in the course of its investigations.^[80]

Regulation (EU) No. 376/2014 on the reporting, analysis and follow-up of occurrences in civil aviation has been assimilated in UK law with some modification.^[81] The CAA is the competent UK authority for mandatory occurrence reporting.

Insurance

Regulation (EC) No. 785/2004 (as amended) has been assimilated in UK law with some modification.^[82] As assimilated, it specifies minimum insurance requirements for all aircraft operators and air carriers flying within, into, out of or over the territory of the UK in respect of liability for passengers, baggage and cargo, and third parties. The CAA is the designated authority for monitoring compliance with this Regulation.

The Civil Aviation (Insurance) Regulations 2005 (as amended)^[83] create sanctions for non-compliance with various provisions of UK Regulation (EU) No. 785/2004, including a number of criminal offences. They also specify the minimum level of passenger insurance for non-commercial operations by light aircraft.

Competition

The aviation sector is subject to the general provisions of UK competition law, the principal components of which are (1), in relation to anti-competitive behaviour and abuse of dominant position, Chapters I and II of the Competition Act 1998 (as amended, including by the Digital Markets, Competition and Consumers Act 2024), respectively, and (2), in relation to merger control, Part 3 of the Enterprise Act 2002 (as amended, including by the Digital Markets, Competition and Consumers Act 2024) and EU Merger Regulation No. 139/2004 as assimilated in UK law.^[84] The UK's national competition authority for these purposes is the Competition and Markets Authority (CMA).^[85] Its powers and duties are set out in the aforementioned Acts as amended. Part 6 of the Enterprise Act 2002 imposes criminal liability on individuals in relation to the making and implementation of cartel arrangements.

The CA Act 2012 makes specific provision for the regulation of the operators of dominant airports and gives the CAA related duties and powers. These are concurrent with the CMA's duties and powers.^[86] The CAA also has competition powers in respect of air traffic services. The CAA has set out how it will apply its powers and duties in its Guidance on the Application of the CAA's Competition Powers.^[87]

Regulation (EU) No. 2019/712 on safeguarding competition in air transport has been assimilated in UK law with some modification.^[88]

Wrongful death

In England and Wales,^[89] if death is caused by any wrongful act, neglect or default, then any action for damages against another person that the deceased could have brought (had his or her death not ensued) can be brought for the benefit of his or her dependants.^[90] The recoverable damages are for their loss of dependency on the deceased (calculated on a multiplicand/multiplier basis), for loss of the pecuniary value (including gratuitous services) that was or would have been provided by the deceased, and for funeral expenses.^[91] Any benefits that have accrued or will or may accrue to any person from the deceased's estate or otherwise as a result of his or her death are to be disregarded.^[92] Damages for bereavement are also recoverable but only for the benefit of a limited class of persons^[93] and in a prescribed amount – currently £15,120.^[94]

Establishing liability and settlement

Procedure

Each of the UK's three legal jurisdictions has a separate court system, each with their own rules of procedure but subject to a common apex in the UK Supreme Court. There is also some variation between the substantive law in each jurisdiction in terms of both applicable domestic statute and common law.

In each jurisdiction, civil proceedings may be commenced in one of two levels of court, depending on the value and complexity of the claim: in England, in the High Court of Justice or county court; in Scotland, in the Outer House of the Court of Session or sheriff court;

and in Northern Ireland, the High Court of Justice or county court. In all these courts the determination is, in general, by judge alone.

There is currently no compulsory alternative dispute resolution scheme in force in the UK with regard to any class of aviation dispute, including in respect of claims against carriers by consumers. However, there is an overriding duty owed to the court to deal with cases justly and at proportionate cost, which may include the use of an alternative dispute resolution procedure.^[95]

The time limit for bringing a claim in the UK depends on the nature of the cause of action relied on. In relation to convention-based liability, an action must be brought within two years, reckoned from the date of arrival at the destination, from the date on which the aircraft ought to have arrived or from the date on which the carriage stopped.^[96] In England and Wales, the general law as to time is set out in the Limitation Act 1980 (as amended). It sets primary (but in certain circumstances displaceable) requirements that an action founded on tort, on contract or to obtain any sum recoverable by virtue of any enactment shall not be brought after the expiration of six years from the date on which the cause of action accrued,^[97] and that an action for personal injury or death shall not be brought after three years from the later of the date of accrual of the cause of action or of knowledge.^[98]

A claim for fixed compensation under UK Regulation (EU) No. 261/2004 is subject to a six-year limitation period.^[99]

Subject to the court having jurisdiction to entertain an action made against the defendant concerned,^[100] there is no artificial restriction on who may be added as a defendant to any action (whether carrier, owner, pilot, manufacturer or otherwise).

In England and Wales, where the same damage is caused to a claimant by the default of two or more persons, then each wrongdoer is liable for the whole damage, regardless of whether any other person is also held liable. The allocation of liability between wrongdoers may be the subject of contractual agreement (e.g., providing for guarantee or indemnity). Any person liable in respect of any damage suffered by another may also be entitled to recover a contribution from any other person liable in respect of the same damage via the Civil Liability (Contribution) Act 1978 of such an amount 'as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage in question'.

Carriers' liability towards passengers and third parties

The nature of a carrier's liability towards passengers and third parties will depend on the cause of action concerned. It is strict in respect of convention liability (where the relevant conditions of liability contained in the convention are met)^[101] and for surface damage.^[102] Otherwise, liability will generally be fault-based. The person making a claim bears the burden of proof. The requisite standard of proof is the balance of probabilities.

Any convention liability will be subject to any applicable limit of liability contained therein.^[103] There is no artificial financial limit in respect of surface damage or for fault-based liability at common law.

Product liability

Directive 85/374/EEC (on liability for defective products) was given effect in the UK pre-Brexit in the form as provided for by the Consumer Protection Act 1987 (CPA) as amended,^[104] which remains in force. It provides that (subject to the provisions of its Part I) the producer, any person who holds himself or herself as the producer, the importer and, if the supplier fails to state whom he or she bought the product from, the supplier of a product is liable where any damage 'is caused wholly or partly by a defect in [the product concerned]'.^[105] For these purposes, a product means any goods, including aircraft, and a product that is comprised in another product;^[106] there is a defect if 'the safety of the product is not such as persons generally are entitled to expect';^[107] and damage means 'death or personal injury or any loss of or damage to any property (including land)'.^[108] However, the CPA does not apply to:

1. property that, at the time it is lost or damaged, is not 'of a description of property ordinarily intended for private use, occupation or consumption' and not 'intended by the person suffering the loss or damage mainly for his own private use, occupation or consumption';
2. loss of or any damage to the product itself; or
3. loss of or any damage to the whole or any part of any product that has been supplied with the product in question comprised in it.^[109]

It therefore does not provide for liability in respect of damage to business property or pure economic loss, and does not require proof of fault. It is subject to specified defences, including state of the art.^[110]

Liability under the CPA is joint and several and without prejudice to liability on any other basis.^[111] It cannot be limited or excluded by any contract term, notice or other provision.^[112]

Aside from the CPA, there is no specific statutory scheme for product liability of relevance to the aviation sector.^[113] Outside the CPA's scope, product liability therefore falls to be determined according to the general common law of contract or tort (in particular, negligence).

Compensation

An award of damages by UK courts is determined by a judge, rather than a jury. As a general rule, an award is limited to an amount equalling the loss actually suffered, and exemplary or punitive damages are not recoverable (and in the case of Montreal Convention-based liability they are expressly prohibited).^[114]

In the case of personal injury, in England and Wales, general damages are recoverable for pain, suffering and loss of amenity. The amount awarded is usually set by reference to the Judicial College Guidelines and past case law. General damages may also be awarded for such things as handicap on the labour market and loss of congenial employment. In addition, special damages may be awarded for the pecuniary loss suffered for such things as loss of earnings and pension, medical or other expenses, cost of care and the cost of adaptive equipment. Future loss is calculated on a multiplicand/multiplier basis, with the multiplier set by reference to actuarial tables. As to compensation in cases of wrongful death, see 'Wrongful death'.

The government provides a comprehensive system of social security benefits and a National Health Service (NHS), which is essentially free to users. There is statutory provision for the recovery from a tortfeasor of certain benefits and NHS charges by the Compensation Recovery Unit of the Department for Work and Pensions.^[115] Benefits paid by an agency of an EU Member State may also be recoverable.^[116]

Drones

EU Commission Implementing Regulation 2019/947 of 24 May 2019 on the procedures and rules for the operation of unmanned aircraft and EU Commission Delegated Regulation 2019/945 of 12 March 2019 on unmanned aircraft and on third-country operators of unmanned aircraft systems have been assimilated in UK law and are in force with some modification.^[117] Detailed further guidance can be found in the CAA's publication CAP 722: Unmanned Aircraft System Operations in UK Airspace – Guidance (as amended).^[118] Contravention of certain provisions of the Implementing Regulation as retained is a criminal offence.^[119] The police have been given related powers of enforcement by the Air Traffic Management and Unmanned Aircraft Act 2021.

The ANO makes specific provisions in respect of unmanned aircraft not required to be certified under the Delegated Regulation as assimilated.^[120] These include that the flight must not enter a flight restriction zone of a protected aerodrome, except with the permission of the relevant air traffic control unit, flight information service unit or aerodrome operator,^[121] or enter a protected space site, except with the permission of the operator of that site.^[122]

Voluntary reporting

The UK has a confidential human factors incident reporting programme (CHIRP), which is run by a charitable trust.^[123] It provides a totally independent, confidential (but not anonymous) reporting system for all individuals employed in or associated with the aviation industry, making available a means by which they are able to raise safety-related issues of concern without being identified to their peer group, management or regulatory authorities. This allows for the collection of confidential safety data. When appropriate, CHIRP acts or advises on information gained through the confidential reports it has received.

There is also an independent UK Airprox Board (UKAB),^[124] to which a report can be made of a situation in which, in the opinion of a pilot or air traffic services personnel, the distance between aircraft and their relative positions and speed have been such that the safety of the aircraft involved may have been compromised (an 'Airprox'). The UKAB provides impartial assessments on cause and risk for all Airprox reported in UK airspace. When appropriate, it makes safety recommendations aimed at reducing the likelihood of a recurrence of any given Airprox event. No names are published in UKAB's reports, to encourage an open and honest reporting environment.

Protection is afforded to whistle-blowers within the civil aviation industry pursuant to the general provisions of the Public Interest Disclosure Act 1998, which protects them from detrimental treatment from their employer where they make a protected disclosure.^[125]

As to mandatory reporting, see 'Safety'.

Outlook and conclusions

It is clear from the past year that the UK is intent on promoting the development of innovation technologies and reconciling growth with sustainability. It is therefore anticipated that the next year will see further measures and incentives introduced to enable the aviation industry to reach new heights. In particular, the appointment of the UK CAA as the Market Surveillance Authority for drones is likely to lead to further development on drone regulation, which may include a departure from EU-derived legislation and principles. Similarly, given that the UK is no longer bound to follow EU regulations and directives, a divergence between the two regulatory regimes may well become apparent in the coming year particularly as the EU continues to introduce various pieces of legislation on AI, the Single European Sky, drones and sustainability.

On sustainability, the UK has not yet taken the route of over-regulating aviation, but it may begin to introduce new regulations as pressure ramps on signatories of the Paris Agreement to meet the goal of net zero by 2050. Whether this will take the form of increased taxes on aviation or sustainability mandates remains to be seen, with the UK traditionally being prone to both approaches.

Lastly, innovation will likely have a significant impact on the UK aviation sector and the regulatory framework. As more airlines start adopting AI, whether generative or otherwise, this is likely to test whether the current regulatory regime is equipped to deal with emerging risks or whether further change is needed. Similarly, the threat posed by cyber attacks on aviation has become increasingly apparent, and it is anticipated that further regulation or enforcement action will need to be implemented to address the risks. The insurance landscape may also need to adapt to this change as cyber attacks become more frequent. The knock-on effects of such cyber attacks may also have an impact on the implementation of passenger rights as we know them, given the disruption caused to airlines' and airports' operations. For the most part, the UK passenger rights regime continues to mirror the EU position, with the CAA continuing to be a vociferous enforcer of the UK-retained version of Regulation (EC) No. 261/2004. This approach is unlikely to change, although it would not be particularly surprising if additional burdens were to be added to airlines in the guise of further passenger rights given the UK's consumer-friendly disposition.

Endnotes

- 1 Although the Channel Islands (i.e., the Bailiwicks of Guernsey and Jersey) and Isle of Man enjoy a unique relationship with the UK through the Crown, in the person of the Sovereign, they are not part of the UK but rather are Crown dependencies. See, for example, *R (Barclay) v. Lord Chancellor and Secretary of State for Justice* [2015] AC 276. [^ Back to section](#)
- 2 In relation to the DfT generally, see www.gov.uk/government/organisations/department-for-transport. [^ Back to section](#)
- 3 Civil Aviation Act 1982 (as amended), Section 1. [^ Back to section](#)
- 4 Civil Aviation Act 2012, Section 2. [^ Back to section](#)
- 5 As set out in the Civil Aviation Acts 1982 and 2012. [^ Back to section](#)
- 6 In relation to the CAA generally, see www.caa.co.uk/home. [^ Back to section](#)
- 7 See, in particular, CA Act 1982, Section 3. [^ Back to section](#)
- 8 Principally, as set out in and under the CA Acts 1982 and 2012, but in relation to passenger rights and general consumer law, it also has a range of powers under the Digital Markets, Competition and Consumers Act 2024. [^ Back to section](#)
- 9 i.e., those having power to provide air transport services and appearing to the CAA to have their principal place of business in the UK, the Channel Islands and the Isle of Man, and to be controlled by persons who are UK nationals or from the time being approved by the SST for this purpose: CA Act 1982, Section 4(2). [^ Back to section](#)
- 10 So far as British airlines may reasonably be expected to provide such services. [^ Back to section](#)
- 11 CA Act 1982, Section 4 and CA Act 2012, Section 1. [^ Back to section](#)
- 12 The Chicago Convention is given domestic effect in the UK largely by and under the CA Act 1982. [^ Back to section](#)
- 13 The TCA has been implemented in UK domestic law by the European Union (Future Relationship) Act 2020. For the TCA itself, see https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/982648/TS_8.2021_UK_EU_EAEC_Trade_and_Cooperation_Agreement.pdf. [^ Back to section](#)
- 14 For a summary of its effect from a passenger perspective, see <https://www.lexology.com/library/detail.aspx?g=51d3d1c0-9cdd-4055-add7-84b089767618>. [^ Back to section](#)

- 15 Assimilated EU regulations are now referred to as 'UK Regulation (EU) No. [X]'. ^
[Back to section](#)
- 16 See further the Explanatory Notes to the
Retained EU Law (Revocation and Reform) Act 2023:
https://www.legislation.gov.uk/ukpga/2023/28/pdfs/ukpgaen_20230028_en.pdf. ^ [Back to section](#)
- 17 i.e., carriers (1) either (a) owned, directly or through majority ownership, and effectively controlled by the UK, its nationals, or both, or (b) owned, directly or through majority ownership, and effectively controlled by one or more Member States, by other Member States of the European Economic Area, by Switzerland, by nationals of such states, or by a combination thereof, whether alone or together with the UK or UK nationals, that held a valid EU operating licence on the day the transitional implementation period ended; (2) having their principal place of business in the territory of the UK; (3) licensed in accordance with the law of the UK; and (4) holding an air operator certificate issued by the competent authority of the UK, and over which that authority exercises and maintains effective regulatory control: TCA, Articles 417 and 422. ^ [Back to section](#)
- 18 i.e., carriers satisfying the requirements of Regulation (EC) No. 1008/2008: see TCA, Articles 417 and 422. ^ [Back to section](#)
- 19 TCA, Articles 419 and 421. Article 419(6) further provides that neither party shall unilaterally limit the volume of traffic, capacity, frequency, regularity, routing, origin or destination of such air transport services, or the aircraft type or types operated for that purpose by the air carriers of the other party (except as may be required for customs, technical, operational, air traffic management, safety, environmental or health protection reasons, in a non-discriminatory manner). ^ [Back to section](#)
- 20 Article 6 of the Chicago Convention maintains such a requirement for schedule services (in respect of contracting states), c.f. the general waiver for non-scheduled services in its Article 5. ^ [Back to section](#)
- 21 As to which, see the Civil Aviation (Allocation of Scarce Capacity) Regulations 2007, as amended by the Operation of Air Services (Amendments etc.) (EU Exit) Regulations 2018. ^ [Back to section](#)

- 22 As to state aid, as amended by the Air Services (Competition) (Amendment and Revocation) (EU Exit) Regulations 2019. As to slots, see UK Regulation (EU) No. 95/93 as amended by the Airport Slots Allocation (Amendment) (EU Exit) Regulations 2019 and 2021, and also by the Air Traffic Management and Unmanned Aircraft Act 2021. This Regulation as assimilated in UK law has been amended to provide further alleviation by the Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2021, the Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2021, the Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2022, the Airports Slot Allocation (Alleviation of Usage Requirements) (No.2) Regulations 2022, the Airports Slot Allocation (Alleviation of Usage Requirements) (No. 3) Regulations 2022, the Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2023, the Airports Slot Allocation (Alleviation of Usage Requirements) (No. 2) Regulations 2023 and the Airports Slot Allocation (Alleviation of Usage Requirements etc.) Regulations 2025. [^ Back to section](#)
- 23 See <https://www.gov.uk/government/news/redesigned-flight-paths-to-deliver-quicker-quieter-flights-and-boost-growth>. [^ Back to section](#)
- 24 See <https://www.gov.uk/government/news/250m-for-green-aerospace-projects-a-head-of-industrial-strategy>. [^ Back to section](#)
- 25 See <https://bills.parliament.uk/bills/3972>. [^ Back to section](#)
- 26 See <https://www.gov.uk/government/publications/about-the-saf-mandate/the-saf-mandate-an-essential-guide>. [^ Back to section](#)
- 27 See <https://www.caa.co.uk/newsroom/news/uk-civil-aviation-authority-appointed-to-oversee-safety-standards-for-drones/>. [^ Back to section](#)
- 28 See <https://www.caa.co.uk/our-work/publications/documents/content/cap3064a/>. [^ Back to section](#)
- 29 *AerCap Ireland Ltd v. AIG Europe SA & Ors (Russian Aircraft Lessor Policy Claims)* [2025] EWHC 1430 (Comm). [^ Back to section](#)
- 30 See <https://www.bbc.co.uk/news/articles/c1jp1dg7g45o>. [^ Back to section](#)
- 31 See <https://www.bbc.co.uk/news/articles/clyzpxnd41o>. [^ Back to section](#)
- 32 Namely, by Regulation (EC) No. 889/2002 and in the UK, as amended by the Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019. This defines a UK air carrier as an air carrier with a valid operating licence granted by the CAA in accordance with Chapter II of Regulation (EC) No. 1008/2008 (as to which see 'Licensed activities'). [^ Back to section](#)

- 33 By the Carriage by Air (Revision of Limits of Liability under the Montreal Convention) Order 2025. [^ Back to section](#)
- 34 Air Carrier Liability Regulations 2004 (as amended). [^ Back to section](#)
- 35 See, for example, *Barclay v. British Airways Plc* [2010] QB 187 at [6]. [^ Back to section](#)
- 36 *Sidhu v. British Airways Plc* [1997] AC 430; *Stott v. Thomas Cook Tour Operators Ltd* [2014] AC 1347. But see *Dawson v. Thomson Airways Ltd* [2015] 1 WLR 883 and *Gahan v. Emirates* [2018] 1 WLR 2287, upholding an exception to this in respect of claims for compensation for delay in arrival at the destination pursuant to Regulation (EC) No. 261/2004. [^ Back to section](#)
- 37 As set out in the Carriage by Air (Supplementary Provisions) Act 1962. [^ Back to section](#)
- 38 Section 1(4). [^ Back to section](#)
- 39 The Carriage by Air Acts (Application of Provision) Order 1967. [^ Back to section](#)
- 40 *Holmes v. Bangladesh Biman Corpn* [1989] AC 1112. [^ Back to section](#)
- 41 *George v. Eagle Air Services Ltd* [2009] 1 WLR 2133 at [12]–[13]. [^ Back to section](#)
- 42 See, for example, *Fellowes (or Herd) v. Clyde Helicopters Ltd* [1997] AC 534. [^ Back to section](#)
- 43 *Laroche v. Spirit of Adventure (UK) Ltd* [2009] QB 778. [^ Back to section](#)
- 44 *Disley v. Levine* [2002] 1 WLR 785. [^ Back to section](#)
- 45 Namely, as amended by the Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019. As to English decisions of precedent in relation to the regulation post-Brexit, see *Varano v. Air Canada* [2021] 2 Lloyd's Rep 372; *Chelluri v. Air India Ltd* [2022] 2 All ER (Comm) 172; *Civil Aviation Authority v. Ryanair DAC* [2022] 2 Lloyd's Rep 115; and *Lipton v. BA CityFlyer Ltd* [2025] AC 154. [^ Back to section](#)
- 46 The Civil Aviation (Denied Boarding, Compensation and Assistance) Regulations 2005 as amended by the Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019. [^ Back to section](#)
- 47 See <https://www.caa.co.uk/Our-work/About-us/Enforcement-and-prosecutions/>. [^ Back to section](#)

- 48 Namely, in *Civil Aviation Authority v. Ryanair DAC* [2021] EWHC 1476 (Ch) (upheld on appeal [2022] 2 Lloyd's Rep 115), in respect of Ryanair's refusal to pay compensation to passengers affected by industrial action taken by its pilots in 2018 on the grounds that the delays and cancellations concerned were caused by extraordinary circumstances.-
^ [Back to section](#)
- 49 Namely, as amended by the Air Passenger Rights and Air Travel Organisers' Licensing (Amendment) (EU Exit) Regulations 2019. ^ [Back to section](#)
- 50 The Civil Aviation (Access to Air Travel for Disabled Persons and Persons with Reduced Mobility) Regulations 2014, Regulation 24. ^ [Back to section](#)
- 51 *Stott v. Thomas Cook Tour Operators Ltd* [2014] AC 1347. ^ [Back to section](#)
- 52 Namely, by the Package Travel and Linked Travel Arrangements (Amendment) (EU Exit) Regulations 2018. ^ [Back to section](#)
- 53 For the meaning of these terms, see Regulation 2(5) and 2(3) of the Package Travel and Linked Travel Arrangements Regulations 2018 (as amended). ^ [Back to section](#)
- 54 Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012 as amended (2012 Regulations), Regulation 9. ^ [Back to section](#)
- 55 2012 Regulations, Regulation 69. ^ [Back to section](#)
- 56 CA Act 1982, Section 76(1). ^ [Back to section](#)
- 57 *Peires v. Bickerton's Aerodromes Limited* [2017] 1 WLR 2865. ^ [Back to section](#)
- 58 A Part-CAT AOC is one issued under Part ARO authorising the holder to operate commercial transport operations: Air Navigation Order 2016 (as amended) (ANO), Article 2 and Schedule 1. ^ [Back to section](#)
- 59 ANO, Article 103. ^ [Back to section](#)
- 60 Namely, as amended by the Operation of Air Services (Amendment etc.) (EU Exit) Regulations 2018 (as amended). Certain related provisions are contained in the Operation of Air Services in the Community Regulations 2009 (as amended). ^ [Back to section](#)
- 61 In the Regulation as assimilated, this is defined more narrowly than the same term as used in Regulation (EC) No.1008/2008, namely simply as the head office or registered office of the carrier concerned: see Article 2(26). ^ [Back to section](#)

- 62** As to which, see CA Act 1982, Section 69A, and Civil Aviation Regulations 1991, Part III (as amended). Significantly, it is a condition of a route licence that the applicant (carrier) is a UK national, or a body incorporated under the law of any part of the UK and controlled by UK nationals, unless the SST otherwise consents to the grant of the licence: CA Act 1982, Sections 69A and 65. [^ Back to section](#)
- 63** The meaning of public transport for these purposes is rather convoluted and is qualified by various special rules and exceptions, as to which see ANO, Articles 6 to 16 (as amended). However, at its core, it embraces any flight that is not for the purposes of commercial air transport but for which valuable consideration is given or promised for the carriage of passengers or cargo. [^ Back to section](#)
- 64** ANO, Article 101(1) as amended by the Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019. The CAA must grant a national AOC if it is satisfied that the applicant is competent to secure the safe operation of aircraft of the type specified in the certificate on flights of the description and for the purpose specified, having regard in particular to the applicant's previous conduct and experience, equipment, organisation, staffing, maintenance and other arrangements: Article 101(2). [^ Back to section](#)
- 65** CA Act 1982, Section 64 (as amended). As to the grant of such a licence, see Section 65 and the Civil Aviation Regulations 1991, Part III. [^ Back to section](#)
- 66** See footnote 62. [^ Back to section](#)
- 67** CA Act 1982, Section 65(3). [^ Back to section](#)
- 68** ANO, Article 250 (as amended). A breach of this Article is a criminal offence: see ANO, Article 265. [^ Back to section](#)
- 69** See ANO, Article 250(3)–(7). [^ Back to section](#)
- 70** As to the application process itself, see www.caa.co.uk/Commercial-industry/Airlines/Licensing/Foreign-carrier-permits/About-foreign-carrier-permits/. [^ Back to section](#)
- 71** Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No. 2111/2005, (EC) No. 1008/2008, (EU) No. 996/2010, (EU) No. 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No. 552/2004 and (EC) No. 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No. 3922/91. [^ Back to section](#)
- 72** Including those commonly known as the EASA Aircraft Certification Regulation, the EASA Continuing Airworthiness Regulation, the EASA Air Operations Regulation, the EASA Aircrew Regulation and the EASA Aerodromes Regulation. [^ Back to section](#)

- 73** Namely, as amended by the Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019, as amended by the Aviation Safety (Amendment etc.) (EU Exit) (No. 2) Regulations 2019 (as amended), and further by the Aviation Safety (Amendment) Regulations 2021, Aviation Safety (Amendment) (No. 2) Regulations 2021, Aviation Safety (Amendment) (No. 3) Regulations 2021 and the Aviation Safety (Amendment) Regulations 2022. [^ Back to section](#)
- 74** i.e., an aircraft that the EASA Basic Regulation and its implementing regulations (as retained) require to hold a certificate of airworthiness, a restricted certificate of airworthiness or a permit to fly under its scheme. [^ Back to section](#)
- 75** In relation to the AAIB generally, see <https://www.gov.uk/government/organisations/air-accidents-investigation-branch>. For the relationship between the DfT and AAIB, see <https://www.gov.uk/government/publications/protocol-the-role-of-air-marine-and-rail-accident-investigation-branches-and-their-relationship-with-the-department-for-transport/protocol-governing-the-relationship-between-the-department-for-transport-and-the-accident-investigation-branches>. [^ Back to section](#)
- 76** Namely, as amended by the Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019. [^ Back to section](#)
- 77** *Rogers v. Hoyle* [2015] QB 265. [^ Back to section](#)
- 78** Regulation 996/2010, Article 14. A coroner has no power to order such disclosure: *R (on the application of the Secretary of State) v. Her Majesty's Senior Coroner for Norfolk* [2016] EWHC 2279 (admin). [^ Back to section](#)
- 79** See, for example, *Lord Advocate, Petitioner* [2015] SLT 450. However, in *BBC v. Secretary of State for Transport* [2019] 4 WLR 23, the court refused an application made by media organisations for disclosure of film footage taken by a pilot from the cockpit of an aircraft in the course of a flight resulting in a fatal accident, even though it had been played to the jury in open court during a criminal trial of that pilot relating to that accident; and in *Her Majesty's Senior Coroner for West Sussex v. Chief Constable of Sussex Police* [2022] EWHC 215 (QB), the court refused an application by a coroner for disclosure of the same footage for the purposes of use at an inquest concerning that fatal flight. [^ Back to section](#)
- 80** *Chief Constable of Sussex Police v. Secretary of State for Transport* [2016] EWHC 2280 (QB). [^ Back to section](#)
- 81** Namely, as amended by the Aviation Safety (Amendment etc.) (EU Exit) Regulations 2019 (as amended). [^ Back to section](#)

- 82 Namely, as amended by the Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2018 and 2020. [^ Back to section](#)
- 83 By the Civil Aviation (Insurance) (Amendment) (EU Exit) Regulations 2018. [^ Back to section](#)
- 84 Namely, as amended by the Competition (Amendment etc.) (EU Exit) Regulations 2019 (as amended). [^ Back to section](#)
- 85 In relation to the CMA generally, see <https://www.gov.uk/government/organisations/competition-and-markets-authority>. [^ Back to section](#)
- 86 As to this concurrent relationship, see the Competition Act 1998 (Concurrency) Regulations 2014 as amended by the Competition (Amendment etc.) (EU Exit) Regulations 2019) and the Memorandum of Understanding between the Competition and Markets Authority and Civil Aviation Authority – concurrent powers (9 February 2016). [^ Back to section](#)
- 87 CAP 1235, dated 12 May 2015: <https://www.caa.co.uk/publication/download/14993>. [^ Back to section](#)
- 88 Namely, as amended by the Air Services (Competition) (Amendment and Revocation) (EU Exit) Regulations 2019. [^ Back to section](#)
- 89 As to Scotland and Northern Ireland, see 'Procedure'. There are broadly similar, but in some respect distinct, rules as to damages in these two jurisdictions. However, a review of the differences is beyond the scope of this chapter. [^ Back to section](#)
- 90 Fatal Accidents Act 1976 (as amended) (FAA 1976), Section 1. Section 1(3) gives a list of who may qualify as a dependant for these purposes. Section 2 sets a general rule that the action must be brought in the name of the executor or administrator of the deceased. It also provides that only one action may be brought in respect of the death. [^ Back to section](#)
- 91 Where the death is not instantaneous, the deceased's pre-death losses are recoverable by his or her estate pursuant to the Law Reform (Miscellaneous Provisions) Act 1934. This could include any pre-death pain and suffering. [^ Back to section](#)
- 92 FAA 1976, Section 4. [^ Back to section](#)
- 93 i.e., the wife or husband, civil partner or cohabiting partner (as defined) of the deceased, or where the deceased was a minor who was never married or had a civil partner, his or her parents if he or she was legitimate and his or her mother if he or she was illegitimate. [^ Back to section](#)
- 94 FAA 1976, Section 1A. [^ Back to section](#)

- 95** Civil Procedure Rules 1998, Part 1. [^ Back to section](#)
- 96** i.e., pursuant to Article 29 of the Warsaw Convention and Article 35 of the Montreal Convention. [^ Back to section](#)
- 97** See its Sections 2, 5 and 9, respectively. [^ Back to section](#)
- 98** See its Sections 11 and 12, respectively. [^ Back to section](#)
- 99** *Dawson v. Thomson Airways Ltd* [2015] 1 WLR 883. [^ Back to section](#)
- 100** Including as provided for by any exclusive jurisdictional code, such as that in respect of a claim against a carrier as contained in the Warsaw and Montreal Conventions, at Articles 28 and 33 respectively; see *Deaville v. Aeroflot Russian International Airlines* [1997] 2 Lloyd's Rep 67. [^ Back to section](#)
- 101** See 'International carriage' and 'Internal and other non-convention carriage'. [^ Back to section](#)
- 102** As discussed in 'International carriage'. [^ Back to section](#)
- 103** See, for example, Articles 21 and 22 of the Montreal Convention, as incorporated into English law as Schedule 1B to the 1961 Act and revised by the Carriage by Air (Revision of Limits of Liability under the Montreal Convention) Order 2025. [^ Back to section](#)
- 104** Including by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019. [^ Back to section](#)
- 105** CPA, Section 2. [^ Back to section](#)
- 106** CPA, Sections 1(2) and 45(1). [^ Back to section](#)
- 107** CPA, Section 3. [^ Back to section](#)
- 108** CPA, Section 5. [^ Back to section](#)
- 109** CPA, Section 5. [^ Back to section](#)
- 110** CPA, Section 4. [^ Back to section](#)
- 111** CPA, Section 2(5) and (6). [^ Back to section](#)
- 112** CPA, Section 7. [^ Back to section](#)
- 113** Except with reference to employees, as to which see the Employer's Liability (Defective Equipment) Act 1969. [^ Back to section](#)

- 114** See Montreal Convention, Article 29. [^ Back to section](#)
- 115** In respect of England and Wales, see the Social Security (Recovery of Benefits) Act 1997 and Part 3 of the Health and Social Care (Community Health and Standards) Act 2003 (as amended), respectively. [^ Back to section](#)
- 116** See *Donkers v. Storm Aviation Ltd* [2015] 1 All ER (Comm) 282. [^ Back to section](#)
- 117** Namely, as amended by the Unmanned Aircraft (Amendment) (EU Exit) Regulations 2020, the Aviation Safety (Amendment) Regulations 2021 and the Aviation Safety (Amendment) Regulations 2022. [^ Back to section](#)
- 118** See <https://www.caa.co.uk/our-work/publications/documents/content/cap-722/>. [^ Back to section](#)
- 119** See ANO (as amended by the Air Navigation (Amendment) Order 2020), Articles 265A-D and 265F. [^ Back to section](#)
- 120** ANO, Article 23. [^ Back to section](#)
- 121** ANO, Articles 94A–94B. [^ Back to section](#)
- 122** ANO, Article 94BA. [^ Back to section](#)
- 123** See <https://chirp.co.uk>. [^ Back to section](#)
- 124** See <https://www.airproxboard.org.uk/home>. The UKAB is sponsored and funded by the CAA and its military equivalent, the Military Aviation Authority. [^ Back to section](#)
- 125** This includes a disclosure that a criminal offence, failure to comply with a legal obligation, or the endangerment of the health and safety of any individual has occurred, is occurring or is likely to occur. [^ Back to section](#)



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Introduction

Civil aviation in the United States is regulated at the national level by various agencies acting under the authority of federal statutes issued by Congress.^[1] The Department of Transportation (DOT) encompasses the Federal Aviation Administration (FAA), which is the primary governmental entity responsible for regulating civil aircraft design, manufacturing, and operations; issuing certificates and approvals; managing the National Airspace System (NAS); providing air traffic control services; funding public airports; and overseeing commercial space activities. The FAA issues regulations commonly referred to as the 'Federal Aviation Regulations' or 'FARs', which are published in Title 14 of the Code of Federal Regulations.

Other federal agencies also play roles in regulating civil aviation, including the DOT with respect to economic authority of commercial operators as well as consumer protection; the Environmental Protection Agency with respect to aircraft emissions; the Transportation Security Administration with respect to aircraft and airport security; Customs and Border Protection with respect to customs, tariffs, and entry requirements; and the Pipeline and Hazardous Materials Safety Administration with respect to shipment and carriage of dangerous goods. Individual states and localities may also exercise some limited authority over aircraft operations, particularly with respect to aircraft noise restrictions. Over the last decade, Congress has demonstrated an increasing interest in passing laws directly aimed at civil aviation activities, including by mandating that the FAA move faster to support the introduction of commercial drone systems.

Dispute resolution may take place in state and federal courts or, as is common in contract disputes, commercial arbitration. Depending on the nature of a regulatory non-compliance, the government may pursue relief against a certificate holder in the form of civil or criminal penalties. Claims of private individuals for personal injury or property damage can be brought in state court or federal court if jurisdictional requirements are satisfied. In personal injury and wrongful death cases, recoverable damages can include economic, non-economic, and punitive damages. The US is party to the Warsaw and Montreal Conventions with respect to liability in international carriage.

The US maintains robust systems for voluntary safety reporting of incidents for industry participants. As a matter of policy, statute, and regulation, voluntary safety reports accepted under various programmes are generally protected from public disclosure in order to encourage reporting.

Year in review

In 2025, the change in leadership at the federal level yielded corresponding changes in priorities and initiatives at agencies like the DOT and FAA. For example, in recent years the DOT had increased the scope and activity level of its oversight of competition in the airline industry. The new administration revoked the prior administration's executive order on competition and apparently will not fill the vacant DOT chief competition officer position. Nevertheless, the administration has not signalled a major departure from historical practice in implementing antitrust and competition law in air transportation. For example,

in September 2025, the DOT terminated its approval of a joint venture arrangement and associated grant of antitrust immunity for Delta Air Lines and Aeromexico on the basis of alleged anti-competitive effects in US–Mexico City markets.^[2]

A major air accident took place in January of 2025 in Washington, DC, in which an airliner on approach to land collided with an army helicopter transiting the airspace, resulting in 67 fatalities. The incident added to existing scrutiny of the quality and effectiveness of the US air traffic control (ATC) system. Legislation was introduced in Congress to, among other things, require aircraft to be equipped with ADS-B In systems, and to accelerate the development of next generation traffic deconfliction technology known as ACAS-X.^[3] The government committed to a significant funding effort for ATC modernisation and controller hiring.

The US continued to support the evolution of commercial drone and advanced air mobility (AAM) technologies. In June 2025, an executive order, 'Unleashing American Drone Dominance', called for accelerating the development and deployment of commercial drone systems.^[4] It also announced the establishment of an electric vertical takeoff and landing pilot programme, the 'eVTOL Integration Pilot Program (eIPP)' to accelerate the deployment of eVTOL aircraft such as those under development by commercial AAM companies. Significantly, the order linked eIPP activities to the FAA's existing drone testing programme, which affords the FAA substantial latitude to grant waivers from regulatory requirements in order to support operations and development. In September 2025, the FAA published a notice soliciting proposals for participation in the eIPP.^[5] Also in 2025, the FAA published for public comment its proposed new regulation on the design and operation of drones, to facilitate the introduction of commercial drone operations in the NAS.^[6]

Legal framework for liability

International carriage

Due to the availability of punitive damages and a perception that some US jurisdictions favour claimants in catastrophic loss cases, courts in the US present an attractive venue for lawsuits arising out of international air accidents, even where parties' connection to the US may be attenuated. In such cases, protracted litigation over jurisdiction and the appropriateness of venue often takes place. Under the doctrine of forum non conveniens, a US court having jurisdiction may nevertheless dismiss an action if it determines that another venue is more appropriate in light of factors such as location of evidence, burden on the defendant, and local interest. In lawsuits arising from international accidents, substantial litigation over the applicability of this doctrine commonly takes place.

The framework for liability arising in international carriage is based on treaties. The US is a party to the Warsaw Convention of 1929 and the Montreal Convention of 1999.^[7] Regulations require domestic and foreign air carriers to furnish each passenger at the time of delivery of their ticket with written notice of the applicability of limits of liability under international treaties.^[8]

Domestic carriage

Liability for wholly domestic carriage is determined under principles of negligence, wrongful death, and strict liability, based on the laws of individual states. State laws are often, but not always, consistent in approach, commonly establishing a fault-based regime for the tort of negligence under common law and strict product liability by statute. Thus, injured parties seeking recovery in tort generally must demonstrate that the defendant was negligent by failure to adhere to a standard of reasonable care. Strict product liability establishes that manufacturers and other entities in a product supply chain may be responsible for damages regardless of fault. State wrongful death statutes establish the scope of recoverable damages, which can include direct economic damages, non-economic damages, and punitive damages. Statutes of limitation for bringing tort claims vary by state.

Methods of apportioning liability also vary. Comparative fault is a common approach, in which liability is allocated among defendants based on their degree of culpability, while under joint-and-several liability each defendant is held responsible for the entirety of damages suffered, allowing the plaintiff to seek recovery from all defendants until it is made whole.

Federal statutory law also applies in some actions. In particular, the General Aviation Revitalization Act of 1994 (GARA) establishes an 18-year statute of repose for claims against manufacturers of general aviation aircraft and parts. Under GARA, a claimant may not bring a personal injury or property damage claim where the loss takes place beyond 18 years after the delivery of a new aircraft or installation of a part. GARA supersedes any applicable state statute of limitations and applies to non-US manufacturers.

Claimants may pursue remedies in state court. Federal courts are also potentially available, although they set barriers to entry in the form of jurisdictional requirements that must be satisfied before a liability case between civil litigants may be brought.

Insurance

US and foreign airlines are required to hold third-party aircraft liability insurance for bodily injury, death, and property damage with minimum limits of US\$300,000 per person in any occurrence, and liability coverage for passengers with minimum limits of US\$300,000 for any one passenger, with a total for each aircraft per occurrence of US \$300,000 multiplied by 75 per cent of the number of passenger seats installed.^[9]

Other considerations

The DOT issues requirements governing consumer rights on matters such as flight delays, cancellations, and carriage of disabled passengers. The Air Carrier Access Act of 1986^[10] details the rights of passengers with disabilities and obligations airlines have regarding assistance with boarding and deplaning; carriage of wheelchairs and mobility devices; accessible seating; and accepting qualified service animals.

The Aviation Disaster Family Assistance Act of 1996 requires domestic air carriers to create family assistance plans and provide logistical support to family members when a major aviation accident in the US takes place.^[11] It requires, among other things, that airlines notify passengers' families as quickly as possible, provide transportation to the site

of the accident, and provide grief support. Notably, it also prohibits solicitation of families by attorneys for 45 days after a disaster takes place. The Foreign Air Carrier Family Support Act of 1997 requires foreign air carriers operating in the US to provide similar assistance.^[12]

Licensing of operations

The DOT issues economic authorisation for domestic and non-US air carriers, while the FAA issues operational and safety authorisation for air carriers and other industry participants including operators, repair stations, manufacturers, and individuals such as pilots and mechanics.

US operators

Air carrier operations in the US require both economic authority from the DOT and operational authority from the FAA. The DOT examines an applicant's fitness to conduct commercial transportation. The fitness assessment evaluates the applicant's managerial competence, financial fitness, and legal compliance, including information about its citizenship, ownership, key personnel, and enforcement history.^[13] The DOT also has continuing eligibility requirements, and any substantial changes in ownership, operations, or management are subject to re-evaluation.^[14]

Domestic air carriers must be US citizens and demonstrate citizenship by satisfying statutory requirements.^[15] For a corporation like an airline to qualify as a US citizen, it must, among other things, have a president and at least two-thirds of the board of directors who are US citizens, be under the 'actual control' of US citizens, and have at least 75 per cent of the voting stock controlled by US citizens.^[16]

In addition to DOT economic authority, entities seeking to engage in air transportation must also obtain authority from the FAA. Commercial air carriers must obtain a Part 119 air operator certificate and FAA operations specifications, which are requirements tailored to the specific certificate holder. Entities that perform domestic airline operations are subject to the requirements of Part 121 of the Federal Aviation Regulations. Entities that engage in charters or other forms of commercial transportation are subject to the requirements of Part 135. For other kinds of commercial operations, other sections of the regulations contain specific requirements, such as Part 133 for rotorcraft external load operations and Part 137 for agricultural operations. Fractional ownership management companies, which manage and operate aircraft for individual owners who purchase quota shares of aircraft, are regulated under Part 91K.

Non-US operators

The DOT issues economic authority in the form of air carrier permits to non-US commercial air carriers, which authorise them to provide transportation to and from the US. The permit is valid for a period of five years unless it is rendered non-expiring under a bilateral agreement with the operator's country of origin. After receiving a permit application, the DOT makes a fitness assessment to determine the applicant's qualifications.^[17] Because this process can be lengthy, it is not unusual for applicants to request an exemption

from the permit requirement. An exemption may be granted for two years and is subject to renewal.^[18] The DOT has established streamlined permit application processes for European Union operators and Canadian air taxi operators.

Non-US operators seeking to perform operations such as crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, or similar agricultural and industrial operations must also obtain authority from the DOT, unless such operations are conducted as a specialty air service under the US–Mexico–Canada Agreement.

A non-US air carrier must also obtain FAA authority in the form of operations specifications issued under Part 129, which contain operator-specific requirements.

Aircraft design and manufacturing

Unlike some jurisdictions, the US does not issue a specific design organisation authorisation to entities seeking to design aircraft or aircraft parts. Rather, the FAA issues design approvals for specific projects, such as through type certificates and supplemental type certificates. As part of the process for issuing design approval, the FAA assesses the applicant's organisational capabilities, but the organisation itself is not certificated.

The FAA issues various forms of production approvals, most notably in the form of a production certificate issued under Part 21. Unique among regulators, the FAA also issues a combined design and production authorisation known as parts manufacturer approval (PMA). PMA authorises the production of replacement or modification parts in conformity with an approved design (the design can be developed by the PMA holder or obtained via licence from a design approval holder such as an aircraft OEM (original equipment manufacturer)). The FAA also issues technical standard order authorisation (TSOA), which is an approval to manufacture parts in conformity with a specific minimum performance standard described in a technical standard order.

Delegated authority

The FAA authorises individuals and entities to perform certain specific functions on behalf of the FAA.^[19] This delegation allows individuals or employees of the entity holding authorisation to perform tasks normally conducted by FAA personnel, such as making findings of compliance. The FAA issues delegated authority to an organisation through an organisation designation authorisation (ODA). The FAA only issues an ODA when it concludes that a specific organisation has the structure, processes, and personnel capable of performing delegated functions. An ODA holder must establish a discrete entity in its organisation, known as the 'ODA unit', that reports to the FAA and, in effect, acts as the FAA's agent for delegated activities. The FAA performs oversight over the holder's systems and processes to ensure that compliance is maintained.

Designers and manufacturers of aircraft and parts have relied on an ODA to streamline their approval processes. The FAA has expanded the scope of ODAs to other kinds of certificate holders, such as to allow airlines to perform certification functions for individuals such as pilots and mechanics.^[20]

Safety

The FAA has broad statutory safety authority that governs operations of all civil aircraft.^[21] This authority ranges from general aviation operations that may be purely recreational, to commercial air transportation, and drone operations.

Operational authorisations

Operation of all civil aircraft is governed by Part 91 of Title 14 of the Code of Federal Regulations, which sets forth general operating and safety standards. Additional rules may apply to different types of operations. Air carrier operations are subject to requirements in Parts 121 or 135, depending on the nature of operations. Foreign air carriers must comply with Part 129. Large aircraft operated in non-common carriage are subject to operating requirements in Part 125.

In 2024, the FAA issued a Special Federal Aviation Regulation (SFAR) for powered-lift that is particularly significant to the emerging AAM industry. The SFAR tailors existing rules in Parts 61, 91, and 135 to powered-lift operations.^[22] Operators of powered-lift aircraft will work within that framework for the 10-year duration of the SFAR, at which time the FAA intends to finalise permanent rules for powered-lift aircraft and operations.

Safety management

Since 2018, the FAA has required Part 121 air carriers to implement safety management systems (SMS), and various other types of companies have implemented SMS voluntarily. In 2024, the Agency issued new regulations requiring charter operators, commuter airlines, air tour operators, and certain aircraft manufacturers to implement SMS. Information provided to the FAA for purposes of SMS is generally protected from public disclosure.^[23]

Accident investigation and reporting

The National Transportation Safety Board (NTSB) has primary authority for investigating aircraft incidents and accidents and is the US agency that participates in investigations under ICAO Annex 13. Its regulations also establish reporting requirements, requiring immediate notification to the NTSB of all accidents and serious incidents.^[24] The FAA also has jurisdiction to investigate incidents and accidents for regulatory non-compliance. The NTSB's finding of the probable cause of an aviation accident is not admissible as evidence in subsequent civil liability litigation for damages resulting from the accident.

Competition

Competition is enforced by the Antitrust Division of the US Department of Justice (DOJ) under the Sherman Antitrust Act of 1890^[25] and the Clayton Antitrust Act of 1914.^[26] The Sherman Act prohibits contracts, combinations, and conspiracies that restrain trade or create monopolies, including agreements among airlines that could artificially inflate prices, limit routes, or reduce competition. The Clayton Act prohibits specific practices that may harm competition, such as price discrimination, exclusive dealing arrangements, and mergers and acquisitions that may substantially lessen competition.

The Hart-Scott-Rodino Antitrust Improvements Act^[27] amended the Clayton Act to require companies to file pre-merger notifications in accordance with Joint Merger Guidelines issued by the DOJ and the Federal Trade Commission (FTC).

The DOT conducts its own competition analysis of potential airline mergers and acquisitions and provides its assessment to DOJ. The DOT has independent public interest and competition authority to approve the transfer of international operating authorities, review slot transactions resulting from proposed airline mergers and acquisitions, and ensure that the successor entity meets the continuing fitness requirements.^[28] The DOT has authority to grant antitrust immunity to participants in international alliances subject to its review of competition and public interest considerations.^[29] The DOT also has authority to carry out the pro-competitive objectives of the Airline Deregulation Act^[30] and to investigate and take action against airlines and ticket agents for unfair or deceptive practices and unfair methods of competition in air transportation or the sale of air transportation.^[31]

A breach of antitrust law can warrant criminal liability for both individuals and companies involved in anticompetitive practices with maximum penalties of 10 years in prison and a fine of up to US\$1 million for individuals and fines of up to US\$100 million for companies depending on the severity and impact of the conduct. A violation of 49 U.S.C. § 41712 (unfair method of competition) is subject to DOT civil penalty enforcement action, including civil monetary penalties of US\$75,000 for each day of violation or for each flight.^[32]

Drones

The FAA currently has a simplified system of regulation and oversight for drones weighing less than 55 pounds, which are not required to comply with specific airworthiness standards but must be found safe to operate and be registered with the FAA. Operations in uncontrolled airspace are allowed without FAA authorisation up to a maximum altitude of 400 feet above ground level or higher if the drone remains within 400 feet of a structure. Authorisation is required to operate a small drone in controlled airspace, and the FAA has created a streamlined, web-based platform, the 'FAADroneZone', for obtaining such authorisations and waivers from various restrictions. Operators must hold a remote pilot certificate.^[33]

Drones weighing greater than 55 pounds are considered aircraft and subject to a variety of regulatory requirements. Until the FAA finalises its comprehensive drone regulations in impending Part 108, such drones are generally being operated in accordance with various waivers and exemptions to existing regulatory requirements.

Congress and the FAA have moved forward with initiatives to support expansion of commercial drone operations at scale. The FAA's BEYOND programme was launched in 2020 as a four-year initiative to support partnerships with state and local governments to test, collect data on, and evaluate drone systems. It was aimed at collecting sufficient information and experience to move the industry towards a rules-based framework for beyond visual line of sight (BVLOS) operations, rather than one that relies on operational waivers. The FAA Reauthorization Act of 2024 extended the BEYOND programme to additional state, local, and tribal governments as well as expanding permitted operations to new and emerging aviation concepts and technologies.^[34] Notably, the Act provided

waiver authority to the FAA, allowing it to waive statutory prohibitions under any BEYOND programme to the extent consistent with safety.^[35] The Act also provided the FAA with authority to waive any of its regulations that would otherwise be subject to the formal exemption process.^[36]

In August 2025, the FAA published and solicited public comment on its proposed comprehensive regulation governing the design and operation of drones, Part 108.^[37]

¹ The proposal set forth detailed requirements for equipment and operations that would allow BVLOS operations for functions such as commercial package delivery and other purposes. Covered aircraft could weigh up to 1,320 pounds and would be qualified based on conformity to performance-based industry consensus standards. Deconfliction would rely on technology, including ADS-B position reporting, as well as data collection and management through entities known as Automated Data Service Providers. The FAA received over 3,000 public comments on the proposal. At the time of writing, an estimated timeframe for promulgation of the final rule is currently unknown.

Voluntary reporting

The Voluntary Disclosure Reporting Program (VDRP) is available to individual aviation professionals and certain certificate holders. It provides an incentive for disclosure of potential safety-related events or regulatory violations in which the FAA foregoes enforcement action for timely reported incidents. A person or covered entity must submit a voluntary disclosure report (VDR) within 24 hours of learning of a potential non-compliance, although the FAA may waive the timeliness requirement.^[38] It will not accept a VDR if the report is made in anticipation of or in connection with an FAA investigation or inspection. A corrective action plan must provide for a comprehensive fix and correct the root cause of the issue to prevent recurrence.^[39] If a report is accepted, the FAA will forgo legal action in favour of overseeing the corrective actions. If the report is rejected because it is untimely or the corrective action plan is deemed insufficient, the FAA may begin enforcement action.

The Aviation Safety Action Program (ASAP) and the NASA Aviation Safety Reporting System (ASRS) are separate voluntary reporting systems for individual aviation professionals, such as pilots.^[40] Both programmes provide some immunity from discipline by the FAA, but with different scope and application. ASAP allows employees of operators a means to report safety issues and is typically implemented through a tripartite agreement among the FAA, the employer, and the labour union for covered employees. Immunity generally protects individuals from company discipline and FAA enforcement action, except in cases involving the 'Big Five'^[41] (intentional disregard for safety, criminal activity, substance abuse, controlled substances, and falsification) or when the voluntary report is not the sole-source of information about an event.^[42] If a report is rejected, the individual may face disciplinary or enforcement action from their employer and the FAA.^[43]

ASRS allows persons involved in aviation to provide anonymous reports of safety issues to NASA, which makes collected data available for public review and study. As a matter of FAA policy, the FAA waives enforcement action against individuals for certain unintentional regulatory violations if they file a timely ASRS report before the FAA begins an investigation.^[44] This protection is generally only available once every five years for the

same reporter for similar violations and does not apply to cases involving criminal activity or aircraft accidents.^[45]

The FAA also maintains a system for responding to whistle-blower complaints under authority of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21).^[46] AIR 21 prohibits discrimination against employees of US air carriers, aircraft design and manufacturing companies, and their contractors who make reports about regulatory and other violations related to aviation safety. The FAA and the Department of Labor through its Occupational Safety and Health Administration (OSHA) have joint and independent responsibilities for the investigation and development of administrative responses to AIR21 complaints.

The FAA is responsible for investigating whistleblower allegations of violations of safety requirements, and initiates enforcement action against certificate holders as appropriate. OSHA investigates allegations of employment discrimination against whistleblowers related to their raising of safety issues. Although the FAA and OSHA carry out their duties independently, they coordinate activities to exchange information and avoid duplication of effort as much as possible.

Outlook and conclusions

Civil aviation will continue to be an area of high tempo activity and continuous development in the US. Although the current administration adheres to a fiscally conservative and deregulatory approach to government action, the aviation sector plays a significant role in public transportation and serves as an important driver of commerce and economic growth. The government will continue its commitment to innovation, and will continue to engage in substantial initiatives to modernise the ATC system and support the development of drones and AAM. Congress will also continue to be directly involved in legislating change in the aviation sector.

An area to watch is whether the FAA will have sufficient resources and staffing to satisfy increasing demands placed on it. In recent years, industry participants have noticed a slowdown in the pace of various agency activities, and it remains to be seen how the FAA will cope with the need to regulate, oversee, and certificate the activities and products of traditional industry participants as well as the many new entrants to the aviation sector. It is likely that public-private partnerships at state and local levels will continue to play increasingly important roles in the development, testing, and implementation of drones and AAM, but this may not compensate for an FAA that is under-resourced. An additional area of uncertainty exists over the extent to which the US will participate in future international initiatives addressing climate issues, such as activities of the ICAO Committee on Aviation Environmental Protection. Should the US withdraw or curtail its involvement in international climate activities directed at air transportation, the industry will need to navigate a complex landscape in response.

The upcoming years promise to be dynamic for the US aviation industry.

Acknowledgements

The authors would like to specifically acknowledge Sarah Holst, our aviation paralegal, for her outstanding work on this chapter. Thank you also to Marc Warren and Courtney Freeman for their contributions.

Endnotes

- 1 The Federal Aviation Act of 1958 created the FAA and gave it sweeping authority over all aspects of civil aviation in the US. ^ [Back to section](#)
- 2 The matter had been pending before the DOT in various forms for nearly a decade. Ultimately, the DOT terminated the joint venture and ATI because of the Mexican government's anticompetitive allocation of slots at the Mexico City Airport, making the case as much about bilateral access under Open Skies as about competition. Significantly, the DOT Final Order did not call into question the continuing need for international joint venture arrangements or for associated grants of ATI. DOT, Final Order 2025-9-8, Docket No. DOT-OST-2015-0070 (15 September 2025). ^ [Back to section](#)
- 3 S.2503, Rotorcraft Operations Transparency and Oversight Reform Act, available at <https://www.congress.gov/bill/119th-congress/senate-bill/2503/text>; see also S.1985, Safe Operations of Shared Airspace Act of 2025, available at <https://www.congress.gov/bill/119th-congress/senate-bill/1985/text>. ^ [Back to section](#)
- 4 See Sec. 6 of E.O. 14307, available at <https://www.whitehouse.gov/presidential-actions/2025/06/unleashing-american-drone-dominance/>. ^ [Back to section](#)
- 5 Electric Vertical Takeoff and Landing and Advanced Air Mobility Integration Pilot Program: Establishment and Request for Proposals, 16 September 2025, available at <https://public-inspection.federalregister.gov/2025-17844.pdf>. ^ [Back to section](#)
- 6 Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations, 90 Fed. Reg. 38212 (7 August 2025). ^ [Back to section](#)
- 7 The US is party neither to the Hague Protocol of 1995 nor the Montreal Additional Protocols of 1975. ^ [Back to section](#)
- 8 14 C.F.R. § 221.105. ^ [Back to section](#)
- 9 14 C.F.R. § 205.5. ^ [Back to section](#)
- 10 49 U.S.C. § 41705. ^ [Back to section](#)
- 11 See 49 U.S.C. § 41113. ^ [Back to section](#)

- 12** See 49 U.S.C. § 41313. [^ Back to section](#)
- 13** 14 C.F.R. § 204.3. [^ Back to section](#)
- 14** 14 C.F.R. § 204.5. [^ Back to section](#)
- 15** 49 U.S.C. § 40102(a)(2). [^ Back to section](#)
- 16** 49 U.S.C. § 40102(a)(15). [^ Back to section](#)
- 17** 14 C.F.R. § 211.20. [^ Back to section](#)
- 18** 49 U.S.C. § 40109(c). [^ Back to section](#)
- 19** See 14 C.F.R. Part 183. [^ Back to section](#)
- 20** See generally, FAA Order 8100.15C, Organization Designation Authorization Procedures (1 October 2025). [^ Back to section](#)
- 21** See, e.g., 49 U.S.C. § 40101(c) and (d); 49 U.S.C. 44701. [^ Back to section](#)
- 22** Integration of Powered-Lift: Pilot Certification and Operations; Miscellaneous Amendments Related to Rotorcraft and Airplanes, 89 Fed. Reg. 9229 (21 November 2024). See also 14 C.F.R. Part 194. [^ Back to section](#)
- 23** See 49 U.S.C. § 44735. [^ Back to section](#)
- 24** See 49 C.F.R. § 830.5(a). In addition to mandatory reporting requirements to the NTSB, the FAA requires manufacturers, commercial operators, and repair stations to provide the Agency with notice of serious failures, malfunctions, or defects encountered in an article. See, e.g., 14 C.F.R. § 145.221. [^ Back to section](#)
- 25** 15 U.S.C. § 1 et seq. [^ Back to section](#)
- 26** 15 U.S.C. § 12 et seq. [^ Back to section](#)
- 27** 15 U.S.C. § 18a. [^ Back to section](#)
- 28** See 49 U.S.C. § 40101(a); 49 U.S.C. § 40103(b); 49 U.S.C. §§ 41102 and 41738. [^ Back to section](#)
- 29** 49 U.S.C. §§ 41308 and 41309. [^ Back to section](#)
- 30** 49 U.S.C. § 40101(a). [^ Back to section](#)
- 31** 49 U.S.C. § 41712. [^ Back to section](#)

- 32** 49 U.S.C. § 46301(a). [^ Back to section](#)
- 33** See generally, 14 C.F.R. Part 107. [^ Back to section](#)
- 34** FAA Reauthorization Act of 2024, Section 920 (Pub. L. 118-63); 49 U.S.C. § 44803. [^ Back to section](#)
- 35** Id., Sec. 920(b)(3). [^ Back to section](#)
- 36** Id., Sec. 927, codified at 49 U.S.C. § 44807(e). [^ Back to section](#)
- 37** Normalizing Unmanned Aircraft Systems Beyond Visual Line of Sight Operations, 90 Fed. Reg. 38212 (7 August 2025). [^ Back to section](#)
- 38** See generally, FAA Advisory Circular (AC) 00-58C, Voluntary Disclosure Reporting Program (1 July 2024). The VDRP is available for all regulated entities with operational authorisations under 14 C.F.R. Parts 21, 119, 121, 125, 133, 135, 137, 141, 145, 147, and qualified fractional ownership programmes under Part 91K. [^ Back to section](#)
- 39** Id. § 5.1. [^ Back to section](#)
- 40** ASAP and ASRS programmes exist for a wide range of aviation professionals, including, but not limited to, pilots, air traffic controllers, cabin crew, dispatchers, ground operations, maintenance technicians, and drone operators. [^ Back to section](#)
- 41** See generally, FAA Advisory Circular (AC) 120-66C, Aviation Safety Action Program, §§ 13.1, 16.2 (31 March 2002). Events involving the Big Five are considered such egregious violations that, where voluntary reports of such events are excluded from ASAP, the FAA may use the content of the report as evidence in an enforcement action against the individual. [^ Back to section](#)
- 42** Id. § 16.4 ('The FAA considers an ASAP report to be non-sole-source when the FAA has evidence that an apparent violation that is not discovered pursuant to, or otherwise predicated on, an ASAP report. . . .'). [^ Back to section](#)
- 43** Regardless of whether an ASAP report has been accepted, an employer participating in the programme retains investigatory and disciplinary authority provided that discipline is not solely reliant on the report. FAA legal interpretation, Reginald C Govan, Chief Counsel, to Marc Warren, United Parcel Service Co Aviation Safety Action Program, at 2 (24 August 2015). [^ Back to section](#)
- 44** FAA Advisory Circular (AC) AC 00-46F, Aviation Safety Reporting Program (2 April 2021). A report is considered timely if reported within 10 days of the violation or when the reporter knew or should have known of it. [^ Back to section](#)
- 45** Id. §§ 8.2, 10.1.1-10.1.2. [^ Back to section](#)

46 49 U.S.C. § 42121. [^ Back to section](#)



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Introduction

Venezuela's strategic location sets the stage for a promising revival of its aviation sector. Despite the challenges posed by the pandemic and past political and economic upheavals, the country is gradually repositioning itself to attract new national and international players, fostering growth in its aviation market. During the past year, domestic air traffic has increased due to the opening of new international commercial routes.^[1]

Regarding international treaties, Venezuela remains a State Party to the Warsaw Convention (1929) and The Hague Protocol (1955) and has not yet ratified the Montreal Convention (1999). Likewise, Venezuela is a State Party to the Convention on International Civil Aviation (Chicago, 1944) and to the Agreement Concerning the Transit of International Air Services, while it did not ratify the Agreement on International Air Transport. Moreover, Venezuela is not a party to the Convention on the International Recognition of Rights in Aircraft (Geneva, 1948) or the Convention on International Interest in Mobile Equipment (Cape Town, 2001).

On the other hand, Venezuela does not have a strict slot allocation system at its leading airports, and, in general, all regulatory issues are handled by the National Institute of Civil Aeronautics (INAC, by its acronym in Spanish). The matter of damages follows the general line of international treaties in the area, and its specifications regarding conditions and limits are specified in the Civil Aeronautics Law.^[2]

The growth in the domestic aviation market has been, in part, due to the investments made in the infrastructure of the country's most important airports.

Adopting international standards and updating regulatory frameworks are crucial to revitalising Venezuela's aviation sector. Analysing and incorporating modern issues, such as aviation sustainability and updating policies on drone regulation, are also crucial steps. This way, Venezuela can ensure a more robust aviation sector poised for significant growth.

Year in review

According to the Aeronautical Law Bulletin published quarterly by the Center for Integration and Public Law (CIDEP by its acronym in Spanish), the Political-Administrative Chamber of the Supreme Tribunal of Justice has published relevant decisions on aviation matters in the past year, which have indicated that (1) all merchandise arriving in the country by air transport is subject to the customs regime,^[3] and (2) international airports are a special customs territory where duty-free shops can operate.^[4]

On the other hand, the Tribunals of First Instance with aeronautical jurisdiction issued relevant rulings during the year, stating that (1) the disappearance of an aircraft may operate as a cause of presumption of death,^[5] and that (2) there is no inept accumulation of claims when moral damages are claimed together with compensation for damages, provided for in the Civil Aeronautics Law, for air accidents.^[6]

Also, the National First Administrative Court of the Capital Region confirmed that the constitutional protection action filed jointly against the Maiquetía International Airport Institute and a private airline is inadmissible.^[7]

Finally, in 2024, the INAC issued the: (1) Venezuelan Aeronautical Regulation 121 (RAV 121) related to 'Rules of Operation for Public Air Transport Operators in Regular and Non-Regular National and International Operations'; (2) General conditions of air transport; (3) Venezuelan Aeronautical Regulation Aeronautics 110 (RAV 110) related to 'Safe transport of dangerous goods by air'; (4) Venezuelan Aeronautical Regulation 39 (RAV 39) related to 'Airworthiness Directives'; and (5) Venezuelan Aeronautical Regulation 277 (RAV 277) related to 'Aeronautical Meteorological Service'.^[8]

Legal framework for liability

In Venezuela, liability in domestic aviation operations is mainly governed by the Civil Aeronautics Law and, subsidiarily, by the Civil Code. In this sense, the elements for determining damages, the identification of compensable damages, and all their particularities are included within the general theory of damages of the Civil Code, except as expressly indicated by the Civil Aeronautics Law.

If liability arises from international carriages, as defined by the concerned international treaty, the Warsaw Convention 1929 shall apply.

Moreover, when a fault causes material damage, the INAC must:

1. Verify whether the aircraft meets the safety conditions required by it.
2. Prepare a sketch of the accident, make a list of the damages suffered by the aircraft or any other property, and form the administrative file of the case.
3. Order the assessment of the damages caused, which will be carried out by a single expert or an expert designated by the aeronautical authority'.^[9]

International carriage

Regarding the legal framework for liability, Venezuela is a party to the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed in Warsaw in 1929. However, it is not yet a party to the Montreal Convention.

Notwithstanding the above, the Civil Aeronautics Law passed in 2009 contains principles arising from the Montreal Convention and, consequently, contains a strict liability system for the carrier for damage to passengers, cargo or luggage.

Although Venezuela is a State Party to the Warsaw Convention, the Venezuela Civil Aeronautics Law does not include the content of Article 20 of the Warsaw Convention and, therefore, the law does not give the carrier the possibility of releasing itself from liability when it demonstrates having taken the necessary measures to avoid damage or that, in any case, it was impossible to take such measures.

There are no indications that Venezuela will ratify the Montreal Convention soon.

Internal and other non-convention carriage

Article 104 of the Civil Aeronautics Law provides that the non-convention carrier and the contractual carrier are jointly and severally liable in the event of death, injury, damage or delay, without prejudice to recourse actions.

General aviation regulation

Chapter VI of the Civil Aeronautics Law is related to general aviation, defining it as 'All non-commercial civil aeronautical activity, in any of its forms',^[10] and stating that it is subject to the provisions of the same law and the technical regulations. Moreover, Article 81 of the Civil Aeronautics Law provides that the flight of non-aircraft objects is subject to the inspection and control of the INAC.

Articles 79 and 80, respectively, define private aviation and the Exhibition, Demonstration, Experimental, Sports and Other Special Flights.

Passenger rights

Norms related to compensation for delays, cancellations of flights, and carriage of disabled passengers are mostly contained in the Civil Aeronautics Law. In this regard, Article 101 is related to delay in the delivery of checked baggage (up to 100 special drawing rights) and cargo ('up to an amount equal to the price stipulated for transportation'), while Article 100 provides an objective liability for the carrier in case of delay or unjustified cancellation of the flight (up to 4,150 special drawing rights).

On the other hand, Article 64 of the Civil Aeronautics Law provides that 'people with disabilities or special needs will enjoy the special discount provided for in the general conditions of contracting air transport services.'^[11] Moreover, Article 13 of the General Conditions of Air Transport^[12] provides that people with disabilities or special needs shall enjoy a 50 per cent discount on the flight ticket price. Also, Venezuelan Aeronautical Regulation 111^[13] (RAV 111) deals with Specialised Airport Services, including those related to people with disabilities.

Other legislation

No other legislation relating to competition, anti-corruption, product liability or environmental law may impose liability on air carriers.

Licensing of operations

Licensed activities

First, the aeronautical personnel shall have licences authorised or validated by the INAC.-^[14] Also, all aircraft shall have onboard the Certificate of Registration, Certificate of

Airworthiness, and all books, manuals, licences and other required documents,^[15] while all aeronautical personnel are required to have certifications and licences issued or validated by the Aeronautical Authority.^[16] Certificates, permissions and licences are issued or validated by the INAC.^[17]

On the other hand, the operation of an airport or aerodrome is only possible by obtaining an operation certificate, and all carriers shall have an Air Transport Service Operator Certificate, both of which are issued by the INAC. Also, '[f]or the exploitation of the public air transportation service by national airline companies, the operator's concession or permit granted by the Aeronautical Authority is required'.^[18]

The procedures related to obtaining, renewing, validating and maintaining such licences and certificates are contained in the Administrative Ruling No. PRE-CJU-GDI-083-19 issued by the INAC,^[19] as well as in:

1. Venezuelan Aeronautical Regulation 60 (RAV 60) Licenses for Aeronautical Personnel;
2. Venezuelan Aeronautical Regulation 67 (RAV 67) Standards for the Granting of the Aeronautical Medical Certificate;
3. Venezuelan Aeronautical Regulation 112 (RAV 112) Certification and Operation of Security Services Companies Civil Aviation;
4. Venezuelan Aeronautical Regulation 119 (RAV 119) Certification of Operator of the Public Air Transport Service and Specialized Air Transport Service;
5. Venezuelan Aeronautical Regulation 139 (RAV 139) Certification of Aerodromes;^[20]
6. Venezuelan Aeronautical Regulation 125 (RAV 125) Large Aircraft Certification and Operations;
7. Venezuelan Aeronautical Regulation 129 (RAV 129) Certification of Operations of Foreign Air Operators to and from the Bolivarian Republic of Venezuela and Foreign Operators with Venezuelan Registered Aircraft;^[21]
8. Venezuelan Aeronautical Regulation 149 (RAV 149) Certification of Aeronautical Training Centers and the respective qualifications for the training of flight crew, cabin crew, flight dispatchers, personnel linked to the operation of RPA and other aeronautical technical specialties;^[22] and
9. Venezuelan Aeronautical Regulation 143 (RAV 143) – Certification of training centres – training of aeronautical technical personnel, except pilots and aeronautical maintenance technicians.^[23]

Ownership rules

To conduct service operations for public air transport of passengers, cargo, and mail or conduct specialised air transport service operations, the commercial society must adopt the form of a company and file, among other things, an economic financial study on the operation's viability.^[24]

Foreign carriers

The RAV 129 Certification of Operations of Foreign Air Operators to and from the Bolivarian Republic of Venezuela and Foreign Operators with Venezuelan Registered Aircraft contains all the requirements foreign-registered operators must fulfil to gain authorisation to operate.

Safety

Safety requirements for operators are contained in Venezuelan Aeronautical Regulation 107 (RAV 107) Civil aviation security at airfields and airports,^[25] Venezuelan Aeronautical Regulation 108 (RAV 108) Aircraft safety in civil aviation, and Venezuelan Aeronautical Regulation 109 (RAV 109) Security in cargo, mail, provisions and supplies operations in civil aviation.^[26] Meanwhile, maintenance rules are contained in Venezuelan Aeronautical Regulation 043 (RAV 043) Maintenance^[27] and airworthiness guidelines are stated in Venezuelan Aeronautical Regulation 039 (RAV 039) Airworthiness Directives.^[28]

Any person who has knowledge of any aviation accident or incident or of the existence of remains or remains of an aircraft must immediately report it to the nearest public authority for it to inform the INAC.

Insurance

According to Article 116 of the Civil Aeronautics Law, Venezuelan and foreign air carriers are obliged to contract insurance policies that cover damages that may be caused during their operation to third parties on the surface, due to boarding, to crew members and auxiliaries with functions on board, to passengers, baggage, cargo and mail. The amounts of said policies could never be less than the limits set by the INAC or those set in the international treaties ratified by Venezuela.

Failure to comply with this obligation results in fines for the air operator, and the INAC supervises compliance.

Competition

No Venezuelan legislation on competition or a regulatory regime for anticompetitive behaviour exists. Competitors are only subject to compliance with the provisions of the Organic Law Against Organized Crime and Financing of Terrorism and its potential criminal consequences in the case of non-compliance.

Strategic alliances, commercial cooperation, mergers or any other legal figure to exploit the air operation service are permitted but are subject to the approval of the INAC.

Wrongful death

Only direct material and moral damages are compensable in Venezuela, even in civil aviation. Neither indirect nor punitive damages are awarded in our jurisdiction. This statement applies in the case of a wrongful death, in which case compensation for loss of dependency may be considered as damages suffered by the claimant.

Article 100 of the Civil Aeronautics Law provides that compensation in the case of death is up to 100,000 special drawing rights. However, the air carrier may lose the benefit of said limit if it is proven that such damages were due to the fraud or fault of their directors or any person who makes decisions for them, their dependants or employees.

Establishing liability and settlement

Procedure

The Civil Aeronautics Law created a particular jurisdiction that knows all claims related to civil aviation incidents and accidents. In the first place, 'any claim for damages caused to passengers, luggage or transported cargo will be made in writing to the airline with acknowledgment of receipt, within thirty business days following the occurrence of the event'; in this case, the airline has 60 working days to respond to the claim 'counted from the date of arrival at the destination, the day on which the aircraft should have arrived or from the delay or cancellation of air transportation'. From that day, the claimant has three years to pursue action against the company.

In the case of damage to third parties on the surface and collision the action is prescribed after three years, counted from the date of occurrence of the events.

The contractual carrier and actual carrier are jointly and severally liable for death, injury, damage or delay. Likewise, 'the operator of an aircraft is jointly and severally liable with the person who operates it illegitimately for damages caused to third parties on the surface when he or she did not take the necessary precautions to avoid it.' Also, the carriers involved in damages caused to third parties on the surface due to a collision are jointly liable for the payment of compensation.

Carriers' liability towards passengers and third parties

Operators' liability to passengers and third parties is strict and not fault-based. The fault is only considered to determine whether the carrier shall lose the benefit of the liability limits due to fraud or fault of their directors or any person who makes decisions for them, their dependants or employees.

Liability in these cases is purely civil and, under general circumstances, is subject to the limits set in the Civil Aeronautics Law.

Product liability

The regime governing manufacturers' and owners' liability to passengers and operators is contained in the Venezuelan Civil Code.

Compensation

Subject to the limits set in the Civil Aeronautics Law, the amounts of the compensations awarded are set depending on the type of damages suffered by the claimant. Material damages, for instance, rely on the consequential damages and lost profits proven by the claimant. In general, factors such as the circumstances of the accident or incident, age of the victim, work life, income level and dependent family members, among others, are key when assessing compensation for the death or injury of a passenger and of third parties on the surface. In some cases, condolence money is voluntarily awarded by the air carrier liable for an accident.

Only direct damages are compensable. Neither indirect nor punitive damages are compensable under Venezuelan law.

In Venezuela, there are no laws on post-accident family assistance and the standards to be complied with in regard to the provision of that assistance.

Drones

The operation and circulation of drones are restricted in Venezuela due to the provision of Joint Resolution No. 080, No. 014245, and No. 005, by which the operation and air circulation in the national territory and other geographical spaces of the Bolivarian Republic of Venezuela is restricted, of any remotely piloted aircraft system, commonly known as DRON or DRONE, until the competent authority issues the Rules that will govern its operation and use.

Voluntary reporting

The only voluntary reporting initiative in Venezuela is contained in Article 99 of the Civil Aeronautics Law, which provides that 'Any person who has knowledge of any aviation accident or incident or of the existence of remains or remains of an aircraft must immediately report it to the nearest public authority', which shall immediately report it to the INAC, 'protecting the area and the elements necessary for the investigation, without the intervention of unauthorized persons'.

In pursuit of the concept of 'just culture', there have been various initiatives to encourage voluntary reporting of incidents in the aviation community to third-party bodies with a view to improving safety. Concern has arisen in some areas that such voluntary reporting may be used against reporters in subsequent accidents as evidence of negligence or criminal recklessness. Identify voluntary reporting initiatives in your jurisdiction and the extent to which such reports are kept confidential from claimants in injury and wrongful death actions, regulators and prosecutors. Identify what whistle-blower protection is available and discuss its effectiveness.

Special considerations

In the past year, the aeronautical area has had few developments at the legislative and judicial levels, in addition to those already mentioned in this chapter.

Outlook and conclusions

The aeronautical sector in Venezuela is promising, and its return to previous levels is expected soon. The market is gradually reopening to allow national and international air traffic growth.

Venezuela's ratification of the Montreal Convention 1999 and the Cape Town Convention does not appear in the current panorama. However, its ratification could allow Venezuela to adopt international standards and show confidence in its aviation market.

It is advisable to analyse and incorporate standards that adapt current Venezuelan legislation to the most modern issues worldwide, such as aviation sustainability. Adopting fuel-efficient aircraft and implementing carbon offset programs are part of the alignment with global environmental trends.

Also, investment in airport infrastructure is a must in view of the potential growth of international and domestic air traffic. Said investment will allow for high-level service that attracts more investment and growth.

Additionally, policies regarding the circulation and regulation of drones, which have not been reviewed for some years, need to be reviewed.

Endnotes

- 1 'Six new air routes will connect Venezuela with the Caribbean in June', *Airline92*, <https://www.airline92.com/noticias/companias-aereas/seis-nuevas-rutas-aereas-conectaran-venezuela-con-el-caribe-en-junio/>. [^ Back to section](#)
- 2 Published in Official Gazette No. 39,140 of 17 March 2009. [^ Back to section](#)
- 3 Decision No. 435 issued on 20 June 2024 (Case: *Trical de Venezuela, C.A. v. SENIAT*). Also see Aeronautical Law Bulletin No. 34 (April–June 2024), <https://cidep.online/files/bda/bda34.pdf>. [^ Back to section](#)
- 4 Decision No. 845 issued on 7 November 2024 (Case: *C.A. Ponche Crema v. SENIAT*). Also see Aeronautical Law Bulletin No. 36 (October–December 2024), <https://cidep.online/files/bda/bda36.pdf>. [^ Back to section](#)
- 5 Decision issued on 3 June 2024 by the Thirteenth Court of First Instance in Civil Matters, Commercial, Transit, Banking and Maritime with headquarters in the City of Caracas (Case: *Mónica Andreina Ortigosa de Briceño y otras*). Also see Aeronautical Law Bulletin No. 34 (April–June 2024), <https://cidep.online/files/bda/bda34.pdf>. [^ Back to section](#)

- 6 Decision issued on 28 October 2024 by the First Court of First Instance for Civil, Constitutional, Commercial, Traffic, Maritime, and Aeronautical Matters of the Second Circuit of the Judicial District of the State of Bolívar (Case: *Andrés Bermúdez y otros v. Aero Transporte La Montaña C.A.*). Also see Aeronautical Law Bulletin No. 36 (October–December 2024), <https://cidep.online/files/bda/bda36.pdf>. ^ [Back to section](#)
- 7 Decision No. 2024-0859 issued on 3 July 2024 (Case: *Rosemary Castro de Tinoco-Smith v. Instituto Aeropuerto Internacional de Maiquetía y Línea Aérea Comercial Avior*). Also see Aeronautical Law Bulletin No. 35 (July–September 2024), <https://cidep.online/files/bda/bda35.pdf>. ^ [Back to section](#)
- 8 See Aeronautical Law Bulletin No. 36 (October–December 2024), <https://cidep.online/files/bda/bda36.pdf>. ^ [Back to section](#)
- 9 Article 118 of the Civil Aeronautics Law. ^ [Back to section](#)
- 10 Article 78 of the Civil Aeronautics Law. ^ [Back to section](#)
- 11 Article 64 of the Civil Aeronautics Law. ^ [Back to section](#)
- 12 Published in Official Gazette No. 6,228 dated 18 May 2016. ^ [Back to section](#)
- 13 Published in Official Gazette No. 5,897 dated 11 November 2008. ^ [Back to section](#)
- 14 Article 40 of the Civil Aeronautics Law. ^ [Back to section](#)
- 15 Article 37 of the Civil Aeronautics Law. ^ [Back to section](#)
- 16 Article 40 of the Civil Aeronautics Law. ^ [Back to section](#)
- 17 Article 9 of the Civil Aeronautics Law. ^ [Back to section](#)
- 18 Article 67 of the Civil Aeronautics Law. ^ [Back to section](#)
- 19 Published in Official Gazette No. 41,595 dated 27 February 2019. ^ [Back to section](#)
- 20 All published in Official Gazette No. 6,462 dated 1 July 2019. ^ [Back to section](#)
- 21 All published in Official Gazette No. 6,099 dated 25 May 2013. ^ [Back to section](#)
- 22 Published in Official Gazette No. 6,279 dated 23 December 2016. ^ [Back to section](#)
- 23 Published in Official Gazette No. 5,719 dated 6 July 2004. ^ [Back to section](#)
- 24 RAV 119. ^ [Back to section](#)

- 25 Published in Official Gazette No. 6,462 dated 1 July 2019. ^ [Back to section](#)
- 26 Both published in Official Gazette No. 6,463 dated 3 July 2019. ^ [Back to section](#)
- 27 Published in Official Gazette No. 5,896 dated 6 October 2008. ^ [Back to section](#)
- 28 Published in Official Gazette No. 6,279 dated 23 December 2016. ^ [Back to section](#)

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