

Air Transport 2021

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Air Transport 2021

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Lexology Getting The Deal Through is delighted to publish the fifteenth edition of *Air Transport*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on Luxembourg and Sweden.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Tom van der Wijngaart and Inês Afonso Mousinho of Clyde & Co LLP, for their continued assistance with this volume.



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Air Transport

in Greece

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REGULATORY FRAMEWORK

Regulators and primary legislation

Which bodies regulate aviation in your country? Under what basic laws?

Aviation in Greece is regulated by the Hellenic Civil Aviation Authority (HCAA), which constitutes a public authority under the Ministry of Infrastructure and Transport, pursuant to the provisions of Law 4427/2016.

Law stated - 01 December 2020

AVIATION OPERATIONS

Safety regulations

How is air transport regulated in terms of safety?

In terms of safety, air transport is regulated by the HCAA. More specifically, the HCAA Department of Aviation Security is responsible for the implementation of the National Civil Aviation Security Programme and the coordination of activities of all agents involved in the safety of civil aviation.

The Department of Aviation Security takes all necessary steps to prevent and address illegal acts against the safety of civil aviation in Greece and Greek aviation interests abroad. Moreover, it participates in many meetings arranged by European and international institutions with the aim of forming European and international legislation on aviation security.

Law stated - 01 December 2020

What safety regulation is provided for air operations that do not constitute public or commercial transport, and how is the distinction made?

Regarding safety regulation in the aviation sector, Regulation (EU) No. 2018/1139 and Ministerial Decision D2/1614/2008 apply to all aircraft except for those with historic or scientific value, private and very light aircraft, very small aircraft, helicopters and military aircraft. More specific legislation is provided for air operations that do not constitute public or commercial transport, such as, for example, Presidential Decree 64/2012 regarding safety regulation for helicopters.

Law stated - 01 December 2020

Market access

How is access to the market for the provision of air transport services regulated?

With the goal of liberalising transport and creating an internal market without frontiers, market access for air transport services is regulated by Regulation (EC) No. 1008/2006 and HCAA Regulation D1/D/30817/2180. No undertaking established in the European Union may carry passengers, mail or cargo by air for a fee unless it has been granted the appropriate operating licence certifying it as a suitable, willing and capable undertaking to provide the proposed operations and comply with the relevant rules. The operating licence is granted by the HCAA to companies that are technically experienced, professionally capable, financially robust and reliable to provide air transport services without creating undue risk to consumers. The basic requirements for licensing an air transport company are the following:

- its principal place of business is located in a member state;
- it holds a valid air operator's certificate (AOC) issued by the HCAA;
- it has one or more aircraft at its disposal either through ownership or through a dry lease agreement;
- its main occupation is to operate air services solely or in combination with any other commercial operation of aircraft or the repair and maintenance of the aircraft;
- member states 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; and
- it meets the specific financial conditions, insurance and solvency requirements specified in the above-mentioned Regulation.

Charter services, in addition to the above licence, require approval from aviation authorities, granted on the written request of the air carrier. In the case of individual charters, a notification to the competent authorities before flight is required instead of the approval.

Law stated - 01 December 2020

Ownership and control

What requirements apply in the areas of financial fitness and nationality of ownership regarding control of air carriers?

To obtain an operating licence, an air transport company must satisfy certain requirements including financial fitness and nationality of ownership requirements.

In particular, for an applicant to acquire an operating licence, financial fitness must be demonstrated. The applicant must be able to meet, at any time, its current and future obligations as well as the fixed costs and operating costs involved in these activities, in accordance with its business plan, for three months from entry into the market without using any income.

Applicants should submit all details and information required by Annex I to Regulation (EC) No. 1008/2008 and HCAA Regulation D1/D/30817/2180, to demonstrate their financial fitness and economic potential to meet the increased demands for aviation.

Regarding nationality of ownership, the mandatory conditions for granting an operating licence to a company are that the principal place of business is located in Greece and 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, except as provided for in an agreement with a third country to which the European Union is a party.

Law stated - 01 December 2020

Licensing

What procedures are there to obtain licences or other rights to operate particular routes?

The legal framework for granting licences to air carriers is defined in Regulation (EC) No. 1008/2008. Additionally, HCAA Regulation D1/D/30817/2180 applies to the parts of it that are not in conflict with Regulation (EC) No. 1008/2008. For the granting of a licence to operate particular routes, the following certificates, approvals or licences should have been acquired previously, in the following order:

- written approval of the base airport;
- approval of lease of the aircraft;
- certificate of noise (if required);
- certificate of flying capability;
- certificate of registration;
- licence of the aircraft's station; and
- AOC.

The aforementioned documents, a written application, any other documents mentioned in the EC Regulation and HCAA Regulation (which show the ability of the air transporter to conduct scheduled operations satisfactorily between each regular or provisional airport and the destination) and that the services and facilities are available and adequate must be brought by the applicant to the HCAA (Directorate of Civil Utilisation, part D). The HCAA must notify the applicant in writing within 20 calendar days of the date of their submission of any missing documents, which should be presented within 30 days. The HCAA shall analyse and evaluate the aforementioned documents and reply to the applicant within 120 days of the submission of all documents required for the application.

Law stated - 01 December 2020

What procedures are there for hearing or deciding contested applications for licences or other rights to operate particular routes?

The HCAA is the authority responsible for examining applications from companies seeking the issue of air transport licences. If a company's application lacks any of the required documentation, a 30-day deadline is set by the HCAA to the applicant to present it. If the applicant fails to do so without informing the HCAA, or to provide the information and the explanations requested in writing, the application is rejected and further work ceases. The decision not to grant an air transport licence must be in writing and be fully and objectively justified by the HCAA. Re-examination of the application is allowed only after the submission of a new application and the deposit of a new fee.

Law stated - 01 December 2020

Competition policy

Is there a declared policy on airline access or competition? What is it?

Presidential Decree 276/1991 repealed the monopolistic status of Olympic Airways in air transport in Greece and the gradual liberation of air transport has begun, following the common policy of the European Union. Thus, the EU policy of protecting and maintaining open, competitive markets applies to aviation in Greece. As part of the framework of common rules of competition, the liberalisation measures introduced by the European Union have been adopted in Greek legislation – for example, the liberalisation of airfares, market access and capacity.

Law stated - 01 December 2020

Requirements for foreign carriers

What requirements must a foreign air carrier satisfy to operate in your country?

Regulation (EC) No. 1008/2008 regulates aviation in the European Union and sets the basic requirements that an air carrier must satisfy to operate an air service between two airports in the European Union. International aviation in

Greece is regulated by Law 3006/2002, which has ratified the Montreal Convention, and by air transport agreements between the European Union and third countries. The above-mentioned agreements provide that for the operation of air transport services from or to third countries an operating licence from the responsible authority (the HCAA) is absolutely necessary. The prerequisites of this operating licence are provided separately in each agreement. However, each air carrier at its entry, stay and exit from the territory of a party state must comply with the legislation of its party state.

Law stated - 01 December 2020

Public service obligations

Are there specific rules in place to ensure aviation services are offered to remote destinations when vital for the local economy?

Regulation (EC) No. 1008/2008, which replaced Regulation (EEC) No. 2408/92 and has an immediate effect on Greek legislation, provides that a member state may impose public service obligations on scheduled airlines that serve regional, yet vital, areas to strengthen their economic development. Thus, the service of these areas with sufficient regular flights, satisfying fixed standards of continuity, regularity, pricing or minimum capacity should be ensured. If no air carrier is willing to demonstrate that it is about to commence sustainable scheduled air services on a route in accordance with the public service obligation that has been imposed on the route (with a compromise of its commercial gain), the state may limit access to the scheduled air services on that route to only one air carrier chosen by public tender for up to four years. This period may extend to five years if the public service obligation is imposed on a route to an airport serving an outermost region.

Law stated - 01 December 2020

Charter services

How are charter services specifically regulated?

Charter services are regulated by HCAA Regulation D1/D/30817/2180. It is obligatory that a previous written approval from aviation authorities is granted, under the prerequisites of this Regulation. Such approval is valid for the specific purpose, airport, date and time it has been issued for, while charter flights should be carried out without violating airport operating hours. As for individual flights, an exception is made and the only requirement is the notice before flight to the airport authorities and the airport involved.

Law stated - 01 December 2020

Regulation of airfares

How are airfares regulated?

Airfares were liberalised by Regulation (EC) No. 1008/2008. EU air carriers are able to determine airfares at their discretion provided that they do not violate the rules of free competition. The parties to a freight contract are free to agree the charter rates, freight rates and fares charged by EU air carriers.

Exceptions to the freedom of fares and rates may be established by public service obligations, in accordance with Regulation (EEC) No. 2408/92.

Law stated - 01 December 2020

Drones

How is the operation of unmanned aircraft systems (drones) regulated?

To use a drone commercially, the following obligations must be met:

- the drone must be nationally registered;
- the operator must obtain a permit to fly and an aerial work certificate;
- the drone identification number must be visible on the fuselage and an identity plate must be attached to the drone;
- if the drone weighs more than 25kg, a permit must be obtained;
- the drone must have an operation manual;
- special authorisation must be obtained to fly beyond visual line of sight; and
- the drone must fly below 150 metres.

If the drone is to be used for private or leisure purposes, the following obligations must be met:

- the drone must be nationally registered;
- an identity plate must be attached to the drone;
- the operator must only use manual flight control;
- the operator must have private liability coverage;
- the drone must be operated away from people and airports;
- the drone must not be operated in clouds, above crowds, above industrial sites, in urban areas or other restricted areas and must not impede manned aircraft; and
- the drone must not fly above 150 metres.

Law stated - 01 December 2020

AIRCRAFT

Aircraft register

Who is entitled to be mentioned in the aircraft register? What requirements or limitations apply to the ownership of an aircraft listed on your country's register?

According to article 3 of the Air Law Code, all aircraft operating in Greek airspace must be entered in the aircraft register and hold a certificate of airworthiness.

To be included in the Greek aircraft register, an application by the aircraft owner is required. If the aircraft owner is a natural person, he or she must be a citizen of a member state of the European Economic Area. If the aircraft owner is a corporate entity, it must comply with the following, depending on its legal form (article 18 of the Air Law Code):

- unlimited partnerships: all partners must be natural persons with citizenship of an EEA member state;
- limited partnerships: all partners must be natural persons with citizenship of an EEA member state and two-thirds of the partnership capital must have been paid by natural persons having citizenship of an EEA member state;
- limited liability companies: the managers and three-quarters of the partners should have citizenship of an EEA member state and three-quarters of the capital must belong to natural persons with EEA member state citizenship;

- sociétés anonymes: all the shares to be registered and owned in absolute majority by natural persons with citizenship of an EEA member state and two-thirds of the board members, as well as the president, chief executive officer and legal representatives to be natural persons with EEA member state citizenship; and
- cooperatives or associations: two-thirds of the members and all members of the management and supervisory boards must have citizenship of EEA member states.

In the case of a leased aircraft owned by non-Greek entities or natural persons and hired by EU nationals, member states or legal persons that meet the above requirements (article 18(2)), the aircraft can be used by the lessee only if it has been registered in the foreign aircraft register held by the Hellenic Civil Aviation Authority (HCAA) (article 17(1)(c)).

For the registration in the aircraft register, a certificate of airworthiness is required (article 20 of the Aviation Law Code) together with a technical inspection conducted by the HCAA, which issues the airworthiness certificate for the aircraft.

For a foreign-owned aircraft to be registered in Greece, it should first be deleted from the prior register (article 24).

Law stated - 01 December 2020

Mortgage register

Is there a register of aircraft mortgages or charges? How does it function?

Pursuant to the provisions of article 17 of the Aviation Law Code, the HCAA shall keep (in addition to the Greek aircraft register) in the Greek aircraft engines' register and the foreign aircraft register (1) a mortgage record, (2) a confiscation record, (3) a claims record and (4) a leases record. However, in practice, only the mortgage and confiscation records are kept.

The following elements are necessary for a mortgage to be registered in the relevant record (article 55 of the Air Law Code and articles 1305 to 1307 of the Civil Code):

- an application form, which can be submitted either by the creditor or by the debtor, or by the third party consenting to the mortgage or by anyone having a legal interest;
- a title of registration; and
- two summaries of the title, which should contain the names, last names, residences and professions of the creditor and the debtor, the date and the type of the above-mentioned title, the amount due, the repayment date of the debt, the description of the aircraft or the engine and the process agent that has been appointed.

The registrar of mortgages ought to record all the elements included in the summaries and note down the date that the application form is submitted for registration (article 55 of the Air Law Code and articles 1315 and 1337 of the Civil Code). From the moment of its registration in the mortgage record, the mortgage is considered valid.

Moreover, the contracts for leases and subleases, which are prepared in written form, are registered in the above-mentioned registers, as no separate record of leases is kept. The registration of a lease and sublease contract in the above-mentioned registers is a constituent element of the contract (article 80 of the Air Law Code).

Law stated - 01 December 2020

Detention

What rights are there to detain aircraft, in respect of unpaid airport or air navigation charges, or other unpaid debts?

Article 189 of the Air Law Code provides that any aircraft flying over Greek territory or landing at Greek airports, or accepting any kind of airport services, is subject to payment of rights, dues and other charges related to aviation, landing and using Greek airports. In case of non-payment, the creditor can request that the airport authority prohibits the take-off of the aircraft and the provision of services to that aircraft or any other aircraft that the debtor owns or operates.

If the total debt exceeds the minimum amount determined by the Minister of Finance and the Minister of Transportation and Telecommunications, the airport authority must satisfy the request of the creditor and detain the aircraft, drafting a relevant report.

The airport authority detaining the aircraft must enable its take-off in the following cases:

- if the owner or administrator of the aircraft deposits a letter of guarantee from a bank operating legally in Greece, equal to the total debt; and
- if the creditor does not submit to the relevant airport authority a request of aircraft provisional arrest within four days of its detention.

Law stated - 01 December 2020

Maintenance

Do specific rules regulate the maintenance of aircraft? What are they?

Aircraft maintenance in Greece is governed by Regulation (EC) No. 2042/2003, as amended by Regulation (EC) No. 376/2007 and Decision D2/46777/13556 of the administrator of civil aviation at the Civil Aviation Ministry, which adopts Annex 6, Part II of the International Civil Aviation Organization regarding international general aviation (aeroplanes issued under the Chicago Convention). According to the above-mentioned regulations, the owner, or the leaseholder in the case of a leased aircraft, is responsible for the constant airworthiness of the aircraft and the assignment of the aircraft's mechanical controls to an approved maintenance organisation.

Moreover, the Civil Aviation Department inspects the maintenance programme and conducts audits to verify the airworthiness of aircraft, to ensure the following:

- the aircraft is maintained in a status of airworthiness;
- the operational equipment and emergency equipment, necessary for the planned flight, are in use;
- the airworthiness certificate of the aircraft remains active; and
- the maintenance of the aircraft is conducted according to Part-145 of the European Union Aviation Safety Agency's regulations on civil aircraft maintenance that are in force and approved by the HCAA.

Law stated - 01 December 2020

AIRPORTS

Ownership

Who owns the airports?

Airports in Greece are owned and operated by the state, with the exception of Athens International Airport and the airports operated by Fraport.

The Athens airport operated by Athens International SA, which has the exclusive right and obligation to conduct the financing, construction, completion, operation, development and management of the airport, and the Greek state retains control of, and supervision over, these activities.

Fraport Greece is responsible for maintaining, operating, managing, upgrading and developing 14 regional airports in Greece.

Moreover, pursuant to Law 3913/2011 and by virtue of a decision of the competent Intra-Ministerial Committee of Asset Restructuring and Privatisation, relevant sociétés anonymes may be established for the administration and operation of all or certain Greek regional airports.

Law stated - 01 December 2020

Licensing

What system is there for the licensing of airports?

Ministerial Decision D3/A/20357/2002 approves the Basic Regulation for Airport Licensing, Functioning and Operating. Its purpose is to establish the criteria and procedures under which the Hellenic Civil Aviation Authority (HCAA) certifies Greek airports serving international flights. Regardless of their ownership, operation and supervision regime, the HCAA must certify that they provide the necessary level of safety, regularity and efficiency.

An airport certificate is required for all Greek airports serving flights to and from abroad. The airport licence applicant must submit a form to the HCAA enclosing the airport manual. Before the certificate is issued, the HCAA controls and ensures that the airport meets, inter alia, the following conditions: the applicant and staff have the necessary competence and experience to properly operate and maintain the airport; and an acceptable safety management system is in place.

The airport certificate licensing regime obliges the airport operator to ensure safe, regular and efficient operation of the airport and to allow access of the authorised personnel of the HCAA to the airport to conduct security audits, inspections and tests.

The airport certification process includes the following:

- preparation and expression of interest from the applicant for the certificate;
- submission of the official application including the airport manual;
- provision of the necessary facilities, equipment, service and airport operating procedures;
- the act itself of issuance or denial of the airport certificate; and
- notification of the certified status of the airport and the publication of related details in the Greek Aeronautical Information Manual.

Law stated - 01 December 2020

Economic regulation

Is there a system of economic regulation of airports? How does it function?

Chapter I of Ministerial Decision D3/A/20357/2002, which approves the Basic Regulation for Airport Licensing, Functioning and Operating, and article 189 of the Air Law Code provide that the operator may establish charges for all airport users. The basic principles for the determination of airport charges are the following:

- the maintenance of a high level of services to support the airport's economic efficiency and competitiveness;
- the existence of incentives for the efficient and economically effective use of the existing infrastructure;
- the prevention of abuse of dominant position;
- the assurance of necessary funding to meet future demand;
- the achievement of local and regional economic development objectives; and
- the assurance of transparency and direct presentation of all necessary financial assets.

Law stated - 01 December 2020

Access

Are there laws or rules restricting or qualifying access to airports?

Regulation (EC) No. 1008/2008 and HCAA Regulation D1/D30817/2180 provide a general right of air carriers with an operating licence to provide air transport services on domestic routes and on routes in the European Union. There are also restrictions on free access in the market to air transport services, when the state imposes public service obligations on scheduled airlines that serve regional yet vital areas to strengthen economic development. Thus, it is possible to limit access to route to an exclusive carrier, selected by a public tender. Moreover, the state can limit access through the allocation of slots to reduce air traffic congestion and delay.

Law stated - 01 December 2020

Slot allocation

How are slots allocated at congested airports?

The allocation of slots in Greece is regulated by Regulation (EC) No. 541/2009, which defines slot capacity available for allocation, the process of allocation and monitoring of the correct use of slots. 'Slot' means the permission given by a coordinator to use the full range of airport infrastructure necessary to operate an air service at a coordinated airport on a specific date and time for the purpose of landing or take-off as allocated by a coordinator. In addition, slot allocation should be considered as giving air carriers permission to access the airport facilities for landing and take-off at specific dates and times for the duration of the period for which the permission is granted. The sole person responsible for the allocation of slots is the coordinator, who allocates the slots in accordance with the provisions of the above-mentioned Regulation and will make a provision that, in an emergency, slots can also be allocated outside office hours.

In Greece, Law 3534/2007 provides for the establishment of the Hellenic Slot Coordination Authority, which allocates slots for flights at Greek airports. In a situation where all slot requests cannot be accommodated to the satisfaction of the air carriers concerned, preference shall be given to commercial air services and, in particular, to scheduled services and programmed non-scheduled air services. In the case of competing requests within the same category of services, priority shall be given for year-round operations. Finally, slots may be:

- transferred by an air carrier from one route or type of service to another route or type of service operated by that same air carrier;
- transferred between parent and subsidiary companies and between subsidiaries of the same parent company, as part of the acquisition of control over the capital of an air carrier;
- obtained in a total or partial takeover when the slots are directly related to the air carrier taken over; or
- exchanged, one by one, between air carriers.

Law stated - 01 December 2020

Ground handling

Are there any laws or rules specifically relating to ground handling? What are they?

Ground handling is typically regulated by Presidential Decree 285/1998, Law 3913/2011 (articles 23 and 24), Law 4427/2016 and the Basic Regulation of Land Service of the Ministry of Infrastructure and Transport (D3/B/16067/3831, Government Gazette B' 1138/2011). Owing to the provisions of this Regulation, the ground service agents have the right to freely access the market services of the ground service in all the Greek airports that are open to trade traffic, if they are located in the European Union. Some cases render it impossible to open a market in ground services, when specific constraints with regard to the available space or the capacity exist in the airport. In these cases, the ground service agents are selected through a competition process and only if they fulfil specific criteria. After selection, they are obliged to comply with the safety and security rules, which are provided in the above-mentioned Regulation.

The use of particular ground service agents at Greek airports depends on the approval provided by the decision of the Minister of Infrastructure and Transport in response to requests by the relevant aeronautical authority that precede the commencement of the activities in question.

The activities of the ground service agents are divided into the following categories:

- baggage handling;
- ramp handling;
- fuel and oil handling; and
- freight and mail handling.

Law stated - 01 December 2020

Air traffic control

Who provides air traffic control services? And how are they regulated?

In Greece, air traffic control services are provided by the General Air Navigation Department, according to the provisions of Law 3913/2011.

Air traffic control services are particularly provided as follows:

- to all flights flown according to instrument flight rules in a restricted aerial space (air corridors, terminals, etc);
- to all flights flown in the control zone of the airport when the necessary visual conditions are unavailable (special visual flight rules flights); and
- in the whole airport's traffic zone in the controlled aerodromes of the country.

Law stated - 01 December 2020

LIABILITY AND ACCIDENTS

Passengers, baggage and cargo

What rules apply in respect of death of, or injury to, passengers or loss or damage to baggage or cargo in respect of domestic carriage?

Pursuant to article 106 of the Air Law Code, in the case of transfer of persons, the carrier must compensate the passengers, or those who are entitled to damages, according to the Civil Law, for passengers' personal injury or death by incident that occurred while the passenger was in the aircraft or during boarding or disembarking. This is strict liability. The carrier is exempted from this if the death or injury occurred exclusively as a result of the passenger's health (article 106). The carrier's liability can also be raised or reduced if the damage is exacerbated by the fault of those injured or persons acting for the carrier.

According to article 110 of the Air Law Code, the carrier's obligation for damages cannot exceed €12,000 per passenger, unless the damage is due to fault of the carrier or person acting on its behalf. In this case the liability becomes unlimited (article 111 of the Air Law Code).

Regarding the transport of goods and luggage, article 107 of the Air Law Code provides that the carrier must pay compensation for total or partial loss, destruction or deterioration of the transported goods and luggage, from the time of receipt until delivery. The compensation for damage amounts to €6 per kilogram in the case of transport of cargo and €12 per kilogram in the case of transport of registered luggage.

The carrier can be exempted from liability, if it proves that all necessary measures to prevent damage were taken and that the damage is due to fault by those afflicted or their employees.

Finally, if the dispatcher of cargo and registered luggage declared their value in writing and paid an additional fare, the carrier is liable up to the value declared, unless it is proven that the declared value is higher than the actual value at the destination.

Law stated - 01 December 2020

Surface damage

Are there any special rules about the liability of aircraft operators for surface damage? What are they?

Articles 117 to 120 of the Air Law Code regulate liability for third-party damage on the surface, caused by aircraft in flight, under the Rome Convention 1952. Strict liability is entirely established for the aircraft owner and the person that exploits it or for third-party damage on the surface, caused by aircraft in flight or by a person or object dropped from it (article 117). The liability of the aircraft owner and the person that exploits it can be raised or reduced if the damage was caused by those injured or by persons acting for them (article 118).

Regarding the amount of compensation, there is a relative obligation for the person that exploits the aircraft – the amount cannot exceed three times the value of the aircraft if it was new on the day of the incident; for the aircraft owner, it is the real value of the aircraft on the same day of the incident.

When the demands of the third parties exceed these limits, half of the amount is allocated to claims, preferably, involving a person's death or injury. The remainder is distributed, in proportion, to meet property damage claims, and partly for unsatisfied claims of death or injury (article 119, paragraph 2).

The above-mentioned liability limits do not apply if it is proven that the damage resulted from guile or gross negligence of the person that exploits the aircraft or the owner or the persons that were in their service (article 111, paragraph 5 of

the Air Law Code).

Law stated - 01 December 2020

Accident investigation

What system and procedures are in place for the investigation of air accidents?

Pursuant to the provisions of articles 141 to 150 of the Air Law Code, if an aircraft has an accident in Greek territory or a Greek aircraft has an accident abroad, the Hellenic Civil Aviation Authority (HCAA) is responsible for investigating accidents involving civil aircraft, after informing the responsible minister. During the preliminary investigation, technical consultants, mainly civil aviation pilots or engineers specialised in aeronautics, can be examined. Those having legitimate interest in the case may also be present or represented by a special attorney.

When the preliminary investigation is completed, the case file and the examiner's report are submitted to the minister. The minister then turns the file over to the Investigative Air Accident Board. The board may conduct a further investigation if the evidence is judged insufficient. Based on the evidence gathered, the board completes a justified report for the causes and the circumstances of the accident. Copies of the finding (which is not binding for the judge) are evaluated independently along with the rest of the evidence, including the files submitted to the minister.

In the case of death or serious injury of a crew member, a passenger or a third person on the surface, the file and the finding are transmitted to the public prosecutor of the magistrates' court with jurisdiction.

The preliminary investigation is completed within six months of the accident, while the process of the board is completed within three months of receipt of the file. The minister may extend these time limits up to six months. The HCAA is not responsible for prosecuting criminal behaviour or assigning blame.

Law stated - 01 December 2020

Accident reporting

Is there a mandatory accident and incident reporting system? How does it operate?

The provisions of article 140 of the Air Law Code require that aircraft operators report all accidents and certain incidents to the nearest airport, police or other authority responsible. According to Law 2912/2001, the Air Safety and Accident Investigation Committee uses a mandatory accident and incident reporting system. The committee is also charged with investigating accidents and serious incidents regarding civil aviation aircraft. It is under the purview of the Ministry of Infrastructure and Transport and it is assisted by the Air Accidents and Incidents Investigation Unit. The investigation process and techniques must comply with Annex 13 to the Chicago Convention and the manuals of the International Civil Aviation Organization. When the investigation is complete, the Committee's findings are summarised and published in two daily newspapers with the largest sales, issued in Athens, and in a local newspaper published in the area covered by the court of first instance with jurisdiction for the case where the incident occurred.

Law stated - 01 December 2020

COMPETITION LAW

Competition law

Do sector-specific or general competition rules apply to aviation?

There are no sector-specific competition rules that apply to aviation. In Greece, the general provisions of the Competition Law (Law 3959/2011), as well as EU competition rules, apply to air transport.

Regulator

Is there a sector-specific regulator, or are competition rules applied by the general competition authority?

There is no competition regulator for the aviation sector. The competition rules introduced by Law 3959/2011 apply for the aviation sector under the supervision of the Greek Competition Authority. The Competition Authority has the authority to: opine on competition issues; supervise compliance with competition rules; issue individual administrative acts; and enforce sanctions when competition rules are breached (ie, recommendations, fines and licence revocation).

Law stated - 01 December 2020

Market definition

How is the relevant market for the purposes of a competition assessment in the aviation sector defined by the competition authorities?

The evaluation of competition in the aviation sector is focused on the relevant geographical market and the relevant product or service market. The liberalisation of the air transport services market aims to ensure a constantly growing healthy competition between air transport companies, as well as other means of public transportation, which is fulfilled through a variety of transportation options available at passengers' disposal. The city pair (origin and destination), the passenger's demand and the transport cost determine the configuration and supply of the alternative means of transportation.

The healthy competition in Greece between aviation companies that operate to and from big cities, either within the country or abroad, is proven by the configuration of ticket pricing, in contrast with the pricing for remote and arid areas. In such cases, where the state assigns the service of these areas to a single carrier after public contest, maintaining quality standards, regularity, non-discrimination and affordable prices, compliance with the established competition rules is not compulsory.

Law stated - 01 December 2020

Code-sharing and joint ventures

How have the competition authorities regulated code-sharing and air-carrier joint ventures?

Answer in progress.

Law stated - 01 December 2020

Assessing competitive effect

What are the main standards for assessing the competitive effect of a transaction?

Article 1 of Law 3959/2011 prohibits all business transactions whose purpose or effect is to impede, constrain or distort competition. The standards for assessing the competitive effect of a transaction, as used by the Competition Authority, are based on whether the transaction leads to the following:

- direct or indirect fixing of market prices, sales prices or other transaction terms;
- restriction or control of production, distribution, technological development or investments;
- distribution of markets or supply sources;
- anticompetitive imposition of unequal conditions on trade or the provision services, especially the unjustifiable refusal to sell, buy or provide services or other transactions;
- application of unequal terms to equal transactions on trade and services, in a way that restrains competition, especially the unjustifiable refusal to sell, purchase or provide services or other transactions; or
- dependence of contracts on the acceptance (by the parties involved) of additional terms that are, by their nature or according to commercial usage, unrelated to the subject of those contracts.

However, the Competition Authority may consider an anticompetitive transaction permissible if the following thresholds are met:

- the transaction contributes to the improvement of production or distribution or to economic development;
- the transaction ensures a benefit to consumers;
- the permissible constraints of competition are absolutely necessary for the achievement of positive results; and
- the competition in relation to a significant proportion of products or services is not abolished.

Law stated - 01 December 2020

Remedies

What types of remedies have been imposed to remedy concerns identified by the competition authorities?

Both civil and criminal penalties can be imposed by the Competition Authority for competition violations. Criminal penalties are imposed, under article 44 of Law 3959/2011, on individuals responsible for compliance with the competition rules, and can be differentiated regarding the type of violation. In addition, individuals can be imprisoned for criminal violations, according to article 44(2) of Law 3959/2011.

To determine the amount of the civil penalties or fines, the Competition Authority takes into account the duration and severity of the offence.

Law stated - 01 December 2020

FINANCIAL SUPPORT AND STATE AID

Rules and principles

Are there sector-specific rules regulating direct or indirect financial support to companies by the government or government-controlled agencies or companies (state aid) in the aviation sector? Is state aid regulated generally?

In the aviation sector, general state aid rules apply according to the direct or indirect financial support to individual companies by the government or government-controlled agencies or companies. In particular, and in the scope of EU law, articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU), Regulations (EC) Nos. 659/1999 as amended, 794/2004 as amended and 800/2008, and Community Guidelines C312 of 9 December 2005 on financing airports and start-up aid to airlines departing from regional airports are applicable.

At a national level, except for the above-mentioned EU legislation that has direct application to Greek legislation,

Ministerial Decisions 2007892/1982 and 2/2000 for the recovery of illegal state aid and Circulars 39729/2005 and 16825/2006 of the Ministry of Finance (MOF), the General Directorate for Economic Policy (under the MOF) and the Directorate of EU regarding the organisation and management of the state aid system electronic notification system also apply.

Law stated - 01 December 2020

What are the main principles of the state aid rules applicable to the aviation sector?

Financial support for a company is considered state aid when the following criteria are met:

- there is state intervention, which can take various forms (eg, grants, interest subsidies, the provision of goods or services on preferential terms);
- the intervention affects trade between member states;
- the intervention provides benefits to the recipient on a selective basis; and
- competition is, or could be, distorted.

The basic principles of the state aid rules applicable to the aviation sector include the following:

- the proportionality principle: the aid granted must be proportional to its objective for an exemption under article 87(3) of the Treaty establishing the European Community to be granted;
- the principle of non-discrimination: the aid must be granted on equal terms for public and private companies;
- the principle of transparency between states and companies that are granted state aid;
- the principle of the compliance of state aid with the EU rules on state aid; and
- the principle that the aid must not adversely affect the development of trade and the other transportation services in the European Union.

Law stated - 01 December 2020

Exemptions

Are there exemptions from the state aid rules or situations in which they do not apply?

The exceptions from state aid prohibition, as defined in article 107(2) and (3) TFEU and in Regulation (EC) No. 800/2008, also apply in the aviation sector. For air transport, member states may grant a temporary licence through an open public competition (that is considered a case of state aid) to ensure regular provision of service to specific air routes that the market does not supply with adequate services. Another case is start-up aid, according to Community Guidelines C-312/2005.

Start-up aid granted to airlines operating from regional airports is a way of attracting airlines to new destinations. Aid operations of this kind must be justifiable, temporary and only given in the case of small airports. In addition, the aid must provide airlines with the necessary incentive to create new routes or new schedules operated from the regional airports in question. This state aid and encouragement of regional airport development will help decongest air traffic in Europe and provide scope for economic development in the regions concerned. The European Commission considers that start-up aid for the operation of new routes should be allowed for a maximum of three years (or five years in the case of the outermost regions), and shall oppose the rules of free competition, the principle of proportionality and the principle of transparency.

Clearance of state aid

Must clearance from the competition authorities be obtained before state aid may be granted?
What are the main procedural steps for doing so?

Article 108 TFEU establishes the European Commission's competence at EU level to constantly control state-aid schemes and monitor the plans of member states intending to adopt or amend the existing aid in advance.

The concerned member state cannot apply state aid measures without notifying the Commission and before its final decision is reached. Any aid that is granted without Commission approval is automatically classified as unlawful aid.

Law stated - 01 December 2020

Recovery of unlawful state aid

If no clearance is obtained, what procedures apply to recover unlawfully granted state aid?

According to the provisions of article 14 of Regulation (EC) No. 659/1999, in the case of the European Commission's negative decisions regarding unlawful state aid owing to incompatibility with the common market and competition rules, the Commission adopts a decision for the member state to take all necessary measures to recover the aid from the beneficiary.

In Greece, the recovery of illegal aid takes place under Ministerial Decisions 2007892/1998 and 2/2000 of the Ministry of Finance. To implement the above-mentioned decision, the European Commission composes an audit report, which is announced to the concerned party with a notice to object within 30 days of notification. If this deadline is missed, or the objections of the interested party are unjustified, the Commission issues a charging practice, which is notified to the concerned party, obliging them to pay the amount charged to any tax office within one month. State aid is surcharged by default interest, calculated from the day the illegal aid is disposed of up to its actual recovery. In Greece, according to the authority decision (C179/7 of 1 August 2009), the current rate of state aid recovery amounts to 1.77 per cent. If the state does not comply with that decision, the European Commission or any interested state may take legal action to the European Court of Justice.

The case involving Olympic Airways and Olympic Airlines was typical: the Commission issued four convictions, describing some of the companies' debts to third parties (government, social security funds, airport fees, etc) as illegal state aid.

Law stated - 01 December 2020

CONSUMER PROTECTION**Passengers**

What rules regulate denied boarding, cancellation or (tarmac) delay?

In Greece, within the framework of ensuring a high level of protection of passengers, the following are applied:

- Regulation (EC) No. 261/2004 regarding refusal to board, cancellation and delay of flight;
- Presidential Decree No. 339/1996, which incorporated European Directive 90/314 and relates to travel packages;
- Regulation (EC) No. 1107/2006 for disabled people; and
- Regulation (EC) No. 1008/2008 and Law No. 2251/1994 with regard to airfares.

In particular, Regulation (EC) No. 261/2004 defines the issues of passengers' reimbursement and aid in the case of refusal to board, cancellation and delay of flight. In the case of refusal to board passengers owing to overbooking or cancellation of a flight, the carrier must reimburse passengers according to the specific guidelines of the Regulation.

In addition, passengers in the aforementioned situations and in cases of considerable flight delays have the following rights:

- reimbursement of the cost of the ticket within seven days, a return flight to the first point of the departure or rerouting to their final destination; and
- care, such as free meals and refreshments, hotel accommodation, transport between the airport and place of accommodation and two free telephone calls, telex, fax messages or emails.

With regard to travel packages (Presidential Decree No. 339/96), the tour operator bears responsibility for the proper fulfilment of obligations that derive from the contract signed by the consumer and the tour operators, regardless of whether these obligations would be executed by a particular tour operator or the providers of other tourism services, since these services constitute a part of the contract. With regard to the damage that the consumer suffers owing to non-execution or improper execution of the transportation contract, the tour operator bears the responsibility, except if non-execution or improper execution is not the result of its fault or that of other service providers but is the exclusive fault of the consumer or a third party, unrelated to the services offered in the contract, or to greater forces. In cases of non-execution or improper execution of the agreed transport service by a carrier, the consumer may turn against the tour operator, which in turn may sue the carrier in question (article 5, paragraph 1, Presidential Decree No. 339/1996).

Also, under Regulation (EC) No. 1107/2006, a number of facilities for disabled people are defined, which ensure their right to travel in the air without problems. The relevant regulations are specified in detail in the European Union chapter.

Finally, Regulation (EC) No. 1008/2008 prohibits all price discriminations based on the customer's residence or nationality or the travel agent's location. It also provides the following consumer rights regarding the prices of tickets offered or even published online.

There must be a clear indication of the total price. Many airlines do not include various charges, such as airport fees or surcharges in their final prices to make them attractive to consumers. This practice is illegal and the Commissioner for Consumer Affairs has sent a strict warning to companies that mislead consumers. Further, additional charges such as airport taxes, fuel surcharges, booking fees or credit card charges must be stated from the beginning in the ticket price published, rather than be added at a later stage in the overall reservation price.

Law stated - 01 December 2020

Package holidays

What rules apply to the sale of package holiday products?

Presidential Decree 7/2018 incorporated into Greek legislation Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No. 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC.

Law stated - 01 December 2020

Other consumer legislation

Is there any other aviation-specific consumer legislation?

There is no special legislation.

Law stated - 01 December 2020

INSURANCE AND SECURITY

Insurance for operators

What mandatory insurance requirements apply to the operation of aircraft?

Pursuant to article 137 of the Air Law Code, a carrier must have insurance coverage for damage deriving from the transportation contract of passengers, items or luggage. Civil responsibility insurance for the carrier and for third-party damage on the surface is among the obligations of the carrier, as defined by Regulation D1/D/30817/2180, and is a prerequisite for granting an operating licence. If obligatory insurance ceases, the Air Law Code states that the validity of the operating licence may be revoked. Moreover, the aircraft operator must have insurance coverage for harm or damage caused by crew members of crew or others embarking the aircraft for the service of the flight, as well as for third parties on the surface.

Additionally, Regulation (EC) No. 785/2004 applies in fixing the minimum insurance claims of carriers and aircraft operating companies. The insurance is defined per accident for each aircraft, proportionately to its maximum take-off mass classification and the risks that are covered include damage resulting from the carrier as well as risks deriving from acts of war, hijacking and terrorist acts.

Law stated - 01 December 2020

Aviation security

What legal requirements are there with regard to aviation security?

The security of airports and air safety in general is based on Regulation (EC) No. 300/2008 and the National Civil Aviation Security Regulation. The Hellenic Civil Aviation Authority is responsible for planning, developing, implementing, monitoring and maintaining the National Civil Aviation Security Programme as well as coordinating all the activities of those involved in the safety of civil aviation. The purpose of the National Civil Aviation Security Programme is to set aviation security standards, procedures and practices for preventing and suppressing acts of unlawful interference against civil aviation that are committed on the ground and in flight.

Among these practices of airport and aircraft security, the following basic rules apply:

- an identity check of passengers;
- security control of passengers, either by hand or through a walk-through metal detector;
- security control of hand luggage;
- controls on hold baggage; and
- prohibiting passengers from carrying items hazardous to safety into security restricted areas.

Law stated - 01 December 2020

Serious crimes

What serious crimes exist with regard to aviation?

The provisions of articles 162 to 184 of the Air Law Code contain various crimes that are either felonies or misdemeanours. These crimes include the following:

- operating an aircraft without the appropriate licence;
- the pilot violating his or her official duties and violating air traffic regulations;
- breaching obligations of the exploited aircraft;
- providing aircraft clearance to foreigners;
- omitting aircraft insurance;
- illegal loading or transport;
- breaching orders;
- violating the pilot's instructions and orders;
- passengers or crew members jeopardising the safety of the aircraft during the flight;
- carrying out stunt flights without the appropriate licence;
- flying in a restricted area;
- not announcing an accident or not providing help;
- crew members committing violations in cases of emergency;
- despoilment or depredation;
- air piracy;
- destroying or damaging the aircraft or survival tools;
- carrying weapons or explosives on the plane;
- destroying or damaging facilities; and
- spreading false rumours.

Law stated - 01 December 2020

UPDATE AND TRENDS

Emerging trends

Are there any emerging trends or hot topics in air transport regulation in your jurisdiction?

In December 2020, the Ministry of Infrastructure and Transport bill for the restructuring of the Hellenic Civil Aviation Authority was voted on (Law 4757/2020).

The bill has been criticised by air traffic controllers and other workers' unions in the sector.

Law stated - 01 December 2020

Coronavirus

What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

Air Transport

No updates at this time.

Law stated - 01 December 2020

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