

Annual Conference WALA  
Paris, 30 June 2023

1

**SESSION:**  
**- AIRPORT OPERATOR LIABILITY AND  
MASSIVE FLIGHT DISRUPTIONS: THE DUTY TO  
COMPENSATE DAMAGES  
AND THE APPLICABLE LEGAL REGIMES**  
**MODERATOR: ALAN MENEGHETTI, GENERAL**

# Airport liability: a complex legal subject

2

- No international convention on airport liability
- No EU law on the subject
- Absent a contractual link between the air traveler and the airport operator, liability based on tort
- However, the legal position is not as simple as that because:
  - ❑ In certain parts of the world, airports are a State body and may rely on State immunity when called in court, as to which see the Athens airport cases (*Day and Evangelinos v. TWA* (1976), and case at Teheran airport;
  - ❑ Air travellers may, as passengers, appeal to airlines in order to receive compensation of their damages on the basis that they have *embarked* their flights, as a consequence of which the airline is liable;
  - ❑ In certain cases, the airport has been regarded as an ‘agent of the air carrier’
  - ❑ In yet other cases, airlines may try to get their money back from airports when airports have not complied with their duties as operators → congestion in 2022

# Congestion at EU airports in 2023/ Schiphol Amsterdam

3



## Causes:

- Shortage of labour forces after COVID-19 pandemic
- Low salaries
- Lack of trained personnel
- Insufficient vision of management?



# Legal measures

4

- The airport operator asked airlines, especially European airlines, to stop operating flights to Amsterdam Airport Schiphol (AAS) because the airport was not capable to handle those flights.
- Hence, passengers/air travelers noticed at the last moment (upon arrival at AAS) that their flights had been cancelled.
- Cancellation of flights is covered by EU Regulation 261/2004, entitling passengers to claim damages, and other remedies (re-imbusement hotel, meals, alternative flights, a standardized amount, depending on the length of the flight (between 250 and 600 € per passenger)).
- Cancellation of flights is not covered by the Montreal Convention, 1999, on airline liability.
- Air travelers received a letter from the airport (AAS) in which AAS announced that it (AAS) would compensate all damages caused by the disruption of flights, to be realized through a dedicated website.
- However, those damages did not include the standardized amounts laid down EU Regulation 261/2004 (see above).

# Congestion → legal confusion

5

- The letter did neither refer to EU Regulation 261/2004 nor to the Montreal Convention, 1999, and did not explain the legal relationship between the airport legal track and the 'conventional' tracks.
- Ryanair, Norwegian, Vueling and easyJet sued the top managers of the airport AAS before the District Court of Haarlem for mismanagement.
- The CEO of AAS resigned in June 2022.
- KLM received compensation from the airport (AAS) for losses and claims made by passengers pursuant to the terms of EU Regulation 261/2004 → the mentioned four airlines hold that this treatment (of KLM) is unfair. AAS argues that KLM had given into the demands from AAS to reduce its flights.
- So far, the airport (AAS) does not acknowledge liability for the chaos of 2022.
- The case before the District court in Haarlem serves end of June 2023.
- The current state of affairs at AAS is 'back to normal'.

# Concluding remarks

6

- Airport liability is a complex subject, involving various legal regimes
- Those legal regimes are not always aligned
- Coherence is difficult to achieve because the subject – airport liability – is basically governed by local law
- Decisions of courts also go into various directions, depending on the jurisdiction in which the court is established and the interests which are at stake.
- The chaos at AAS (Amsterdam) in 2022 was dramatic for air travelers, airlines and passengers – but the situation has been normalized in 2023.
- However, legal proceedings continue.



**Thank You!**  
**Mille Merci!**  
**Muchas gracias!**

