

**Airport operator liability and massive flight
disruptions:
the duty to compensate damages and the applicable
legal regimes**

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The recovery of air traffic after the COVID-19 pandemic: disruptions at the EU airports

8:30 AM	E50	Delayed 9:30 AM
8:35 AM	E48	Delayed 9:30 AM
8:00 AM	B18	Delayed 8:30 AM
8:31 AM	E58	Cancelled
8:35 AM	A8	Delayed 9:30 AM
9:25 AM	E46	Cancelled
6:00 AM	A8	Delayed 9:30 AM
6:59 AM	C27	Delayed 9:30 AM

- ▶ The recovery of air traffic after the COVID-19 pandemic has grown rapidly to unexpected levels.
- ▶ Many EU airports and operators providing essential services at airports (mainly security services providers and ground handlers) have faced staff shortage, due to redundancies during the pandemic and difficulties in hiring and train needed staff as air service traffic returns to near pre-Covid levels. This caused severe disruptions, affecting the passengers over the 2022 summer.

The Italian experience

Italian airports and operators have not experienced such disruptions and the recovery of air traffic has been smooth, mainly thanks to Covid 19 measures put in place by the Italian government to maintain occupancy levels.

In essence, with a series of law decrees, starting from March 2020, the Italian Government introduced special “*cassa integrazione*” regimes (furlough schemes), which employers could activate, subject compliance with certain requirements. According to most of the collective agreements in force, the staff was entitled to training during the suspension of work under the furlough schemes

In addition, temporary restrictions on collective redundancies and minimum wages for air transport sector have also been introduced during pandemic

Thanks to the above, when the post Covid 19 recovery started, Italian Airports and airports operators were almost ready with adequate staff



Airports liability towards passengers and airlines: some case laws

According to the air transport agreements in place and the applicable law provisions (Montreal Convention, 1999, EU Regulation 261/2004 and local laws), passengers have direct actions against the airlines, while they could only claim airports liability on tort.

Thus, airlines should either call the airports to join the lawsuits started by passengers, or claim the airports' liability with a separate action.

Both of the above exercises prove costly and time-consuming, so in practice airlines and airports/airport operators usually introduce contractual provisions as part of their Service Level Agreements (SLAs) governing related responsibilities

Relationship between Air Carriers, Airports and Ground-handling companies, in relation to damages suffered by passengers



Airports



Claim
in tort



Passengers



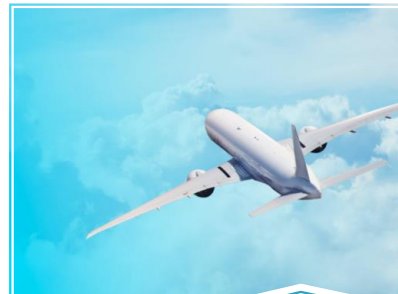
Claim
in tort



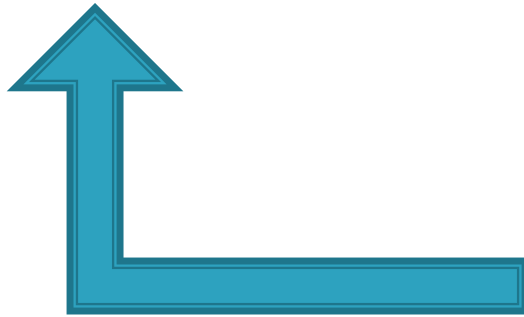
Handlers



Contractual
claim



Airlines



Handlers

Damage or loss of baggage

Claim by a shipping company against the airline and the handler for the loss of a package containing jewellery.

According to the *Supreme Court, Judgment No. 21850/2017*:

- ▶ the handler is an auxiliary of the airline since without its support the airline cannot take charge of or redeliver the freight;
- ▶ the airline and the handler are jointly liable for damage or loss (i.e., the airline bears contractual liability and the handler liability in tort);
- ▶ in the event that the Montreal Convention applies, the handlers can make use of the limitations of liability provided for airlines



Accidents at the airport

Passenger's claim against airline and airport based on accident occurred during disembarkation operation.

According to the *Court of Rome, Judgment No. 6143/2023*, Article 17(1) of the Convention for the Unification of Certain Rules Relating to International Carriage by Air, concluded at Montreal on 28 May 1999, must be interpreted to mean that a situation in which, for an undetermined cause, a passenger falls down a movable ladder set up for the disembarkation of passengers from an aircraft and sustains personal injuries falls within the concept of an "accident" within the meaning of that provision, even if the air carrier concerned has not breached its duties of care and safety in this regard.



Airports

Massive flight disruptions

Passengers' claim against the airline for the cancellation of a flight due to a fire at the airport.

According to the Court of Rome, Judgment No. 15529/2022, pursuant to Article 5 of EC Regulation 261/2004, the airline is not required to pay compensation under Article 7 of the said regulation, given that it is proven that the cancellation of the flight was due to an exceptional circumstance, namely the reduction in air traffic due to the fire on 7.5.2015, constituting an unforeseeable cause that cannot be attributed to the carrier's normal business operations.



Thank you!



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