

* *Airport Operator Liability for
Damages
Damage in International Carriage
of Cargo*

Damage to cargo in International Air Transport
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1. *Contractual and non-contractual liability for a harmful event,*
- * 2. Liability for damages under international or national law
- * 3. *Strict and subjective liability of the airport operator*
- * 4. *General conditions of use of the airport infrastructure*

* Legal nature of airport operator liability

- * Liability for damages derived from Airport operations - Regulation EU 139
- * Airport operator liability for death or bodily injuries to passenger or airport users,
- * *Liability of the airport operator for damage to the aircraft*
- * *Liability of the airport operator for damage to baggage and cargo*
- * *Liability of the airport operator for the security screening of passengers*
- * *Airport operator liability for bird strikes*
- * *Liability of the airport operator for excessive noise in the area around the airport*
- * *Liability of the airport operator for damages caused by the strike of the airport staff*
- * *Airport operator liability for the protection of personal data*
- * *Airport Liability for damages in case of aircraft excursions and incursions*

* **Most common examples of airport liability for damages**



** Liability of the airport operator for a damages to passengers falling on an escalator*

- * while the passenger was ascending the escalator, another passenger with a stroller, carrying a girl aged between 2-3 years, was also ascending the escalator in front of her who lost balance halfway up the escalator, started screaming, and together with stroller fell directly onto the injured passenger, who couldn't maintain balance. The escalator went over the entire body of the injured passenger
- * Escalators are a dangerous object, and the airport operator is held liable for accidents based on the principle of strict liability.

STRICT OR SUBJECTIVE LIABILITY

the passenger claimed compensation from the airport operator as follows:

- For mental anguish: 2,500.00 EUR
- For severe pain: 1,720.00 EUR
- For moderate pain: 200.00 EUR
- For mild pain: 150.00 EUR
- For severe fear: 240.00 EUR
- For moderate fear 100.00 EUR
- For mild fear: 35.00 EUR
- Medical assistance by unqualified personnel: 250.00 EUR

The total amount of the claimed compensation is 10,180.00 KM, which is equivalent to a total of 5,212.49 EUR

In this specific case, there is liability of the airport operator for damage caused by the use of a dangerous object, and the legal reason for excluding liability is warning the passengers and visitors of the airport about the use of a dangerous object.

* Airport liability for damages



Flight Departures

12:30

Thu 25 November 2010

TIME	DEPARTING TO	AIRCRAFT	FLIGHT	TERMINAL	STATUS	GATE
12:30	MIAMI	Alitalia	AD 9485	T1	CANCELLED	14
12:45	ROMA	Alitalia	AD 4569	T1	DEPARTED	10
12:50	VANCOUVER	Lufthansa	LH 06407	T2	BOARDING	8
13:00	CITTÀ DEL MESSICO	SwissAir	SN 03154	T2	BOARDING	1
13:20	FT NELSON	Singapore Airlines	539420	T2	BOARDING	11
13:40	ISTANBUL SABIHA GÖKÇEN	Blue Panorama	563240	T1	ON TIME	5
13:45	BRUGE	Brussels Airlines	762	T1	ON TIME	7
13:45	ORLANDO	SwissAir	CO 9324	T1	DELAYED 14:20	14
14:10	LONDON HEATHROW	British Airways	BA 00567	T1	ON TIME	2
14:23	COPENHAGEN	SAS	SK 00688	T1	ON TIME	15
14:50	DUBAI	Emirates	EK 00092	T2	ON TIME	3
15:15	ROMA	Alitalia	AD 4569	T1	CANCELLED	10

FIDS - Flight Information Display System

- * The airport operator is responsible for the data on the FIDS - Flight Information Display System. The flight information system contains data about flights, flight schedules, destinations, boarding gates, as well as indicators of whether a flight will be on time, delayed, or canceled
- * The airport operator's liability for the accuracy of data on the flight information system is a non-contractual liability for damages based on the presumed fault of the airport operator.
- * The question arises whether the airport operator can exclude liability for damages for the accuracy of data on the website by applying a general exclusion clause that warns passengers and/or airport users that the airport operator excludes liability for material and non-material damages for the accuracy of data on the airport operator's website. The answer is negative, provided that the airport operator manages the flight information system. General conditions of use of the airport website,

FIDS - Flight Information Display System



ceiling collapsing

- * The infrastructure of the airport is the responsibility of the airport operator
- * while staying on the premises owned by the airport operator, he suffered multiple bodily injuries due to the ceiling collapsing on his head and body. As a result of the injuries, there have been physical difficulties and psychological distress
- * In order to exclude liability for the harmful event, the airport operator needs to provide evidence that the facility had all the necessary permits and documentation, both in terms of investment and ongoing maintenance of facility maintenance carried out in accordance with the airport operator's internal procedures.

Considering that the harmful event occurred on a day when adverse weather conditions with occasional storm gusts were recorded at the airport, the airport operator has been pointing out, in order to exclude liability for the harmful event, that it was caused by a severe storm. The burden of proving force majeure lies with the airport operator, who engaged an expert to support their defense.

In order to claim compensation for damages, the passenger needs to prove the general conditions of liability, primarily the harmful event and the amount of damage. In order to maintain their business reputation, it is often in the best interest of airport operators to reach a settlement out of court in similar cases.

ceiling collapsing

* Cargo - Limited or Unlimited
Liability of Airport Operator?



* Applicable Instrument

- Cargo carriage is unidirectional carriage
- In case of damage to cargo, first legal question what instrument is applicable - international air law or national law



Warsaw System



Montreal Convention 99



* Applicable instrument

- * Carrier liability (Warsaw System or Montreal Convention 99)
- * Agent liability - National law or private international law instruments?
- * Period of Liability - Warsaw System airport to airport system, MC 99- encompass carriage outside an airport
- * Claimants - consignor, consignee, owner of cargo?
- * Defendants - Liable person (carrier or agent)



* Damage to Cargo

- * Subjective or strict liability?
- * Breakable or unbreakable liability limits?
- * Warsaw as amended Hague Protocol 1955. subjective liability for damage to cargo in international air transport - Limited Liability, but breakable liability limits
- * Montreal Protocol 4. unbreakable liability limits - Montreal Protocol 4 and MC 99 unbreakable liability for damage to cargo
- * Are unbreakable liability of limits in line with national legal system?
- * Special declaration of interest in delivery at destination is rarely used in practice



* Subjective or Strict Liability

- * Carriage by air, the period during which the cargo is in the charge of the carrier - article 18. 3 MC 99
- * What is airport - functional or technical definition?
- * What if cargo premises are located outside airport fence?
- * If carrier without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.- art 18.4 MC 99
- * MC 99 applicable in case of door to door transport - US court approach.



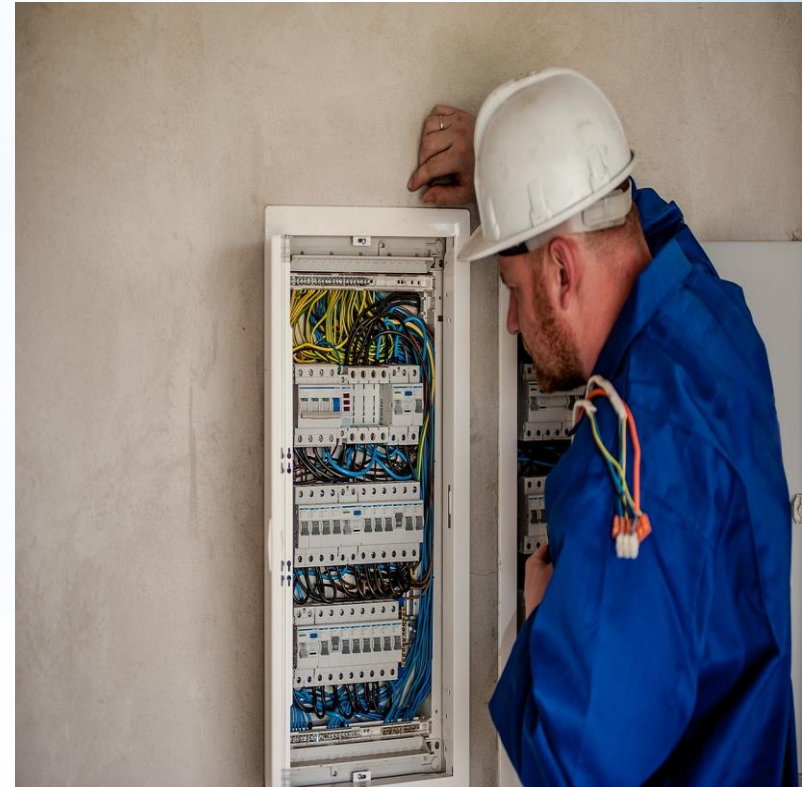
* Period of liability

- * Liberalisation of ground handling market took place in 1997 - Directive on access to the groundhandling market at Community airports
- * No monopoly position in the market for ground services (selfhandling and third party groundhandlers)
- * Supreme Court of Italy - Handling Company is considered to be agent of the carrier
- * Montreal Convention applies to the ground handling agent of the carrier



* Servants and Agents of the Carrier

- * The term servants and agents is not defined in Warsaw System and Montreal Convention
- * Cumulative conditions (agent acted in the execution of a task assigned to them, execution of task serves the performance of the contract for carriage by air
- * Case Law - if Handling Company establish monopoly position, than there is no legal ground to subsume airport operator as agent in terms of Warsaw system
- * Entrusting the goods to the handler create contract of deposit



* Servants and Agents of the Carrier

*Questions

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