

EVENT CALENDAR:

November 8, 2019 – The 31st EALA Annual Conference, Paris, France

November 14-15, 2019 – IIASL / Clyde&Co Air Law Workshop, Leiden, the Netherlands

December 7, 2019 – Celebrating the 75th anniversary of the Chicago Convention and ICAO organised at LUISS University, in cooperation with ENAC, ENAV and IIASL, Rome, Italy

December 16, 2019 – The European Aviation Club Conference “Hot Topics Aviation”, Brussels, Belgium

February 10, 2020 – Russian National Round of the 11th Leiden–Sarin International Air Law Moot Court Competition, Moscow, Russia

April 17-19, 2020 – The 11th Leiden–Sarin International Air Law Moot Court Competition, Shanghai, China

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AVIATION LEGISLATION. Overview of September-October 2019 changes

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- EU

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EXPERT’S OPINION

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NEWS OF THE AEROHELP INSTITUTE

EXPERT’S OPINION: BLACK SEPTEMBER IN EUROPE, BLUE SEPTEMBER IN BRAZIL



ANDRE SOUTELINO

SAO PAULO (BRAZIL)

EXPERT IN AVIATION REGULATION (AIRPORTS AND AIRLINES), CONSUMER, LABOR AND BUSINESS LAW, LL.M., ADVOCATE

While Thomas Cook, Adria Airways, XL Airways and Agile Azur have filed for bankruptcy in September, Brazil is waiting for new entrants in a market with little competition. Only 3 airlines take more than 90% from the Brazilian market share (domestic aviation is over than 80 m. passengers per year).

About capacity, Brazil has a lack of capacity in all kinds of routes. From regional to international routes, Brazil is an ocean of opportunities in aviation and tourism sectors.

From airlines and airports to tourism development areas and aviation training, Brazil urges for serious investors. By the way, Brazil is Formula 1 car ready to start the race.



RUSSIAN AIR LEGISLATION: OVERVIEW OF SEPTEMBER-OCTOBER 2019 CHANGES

On 9 September, Ministry of Transport of Russian Federation approved Federal Aviation Rules “Certification of aircraft equipment, development organizations and manufacturers. Part 21” (FAR-21). The new FAR will enter into force on 8 December (90 days upon publication) and will replace the currently applicable aviation rules AP-21 of International Aviation Committee (IAC).

Adoption of the new FAR is conditioned upon empowering in 2015 Federal Air Transport Agency (Rosaviatsia) with the authority to certify aircraft, its developers and manufacturers. The new FAR is intended to create a certification procedure harmonized with internationally recognized procedures in order to support export of aviation equipment.

On 11 September, Ministry of Transport and Ministry of Healthcare published a joint Order approving a standard form of contract for performing aviation works ensuring medical care in the territory of Russia. This standard form shall become applicable to governmental purchases of aviation works starting from 21 September (the date the Order entered into force).

On 27 September Drones with a maximum take-off weight of 0.25-30 kg registration procedure adopted in May entered into force. It should be noted that subject to registration are drones manufactured in the Russian territory or imported thereto both after the Procedure entered into force and also prior to this date. Detailed information on the drones registration procedure is available on Rosaviatsia website at: <https://www.favt.ru/>.

On 29 September, amendments to the Russian Tax Code were adopted to abolish imposition of value added tax (VAT) on the import of civil aircraft subject to registration in the Russian Federation, and on the import of aircraft engines and other aircraft components intended for the construction, repair and (or) modernization of civil aircraft in the Russian Federation. The amendments also provide for VAT zeroing in respect of the following operations: (1) realization of civil aircraft registered (subject to registration) in the Russian Federation and realization of works (services) for aircraft construction; (2) realization of aircraft engines, spare parts and components intended for the construction, repair and (or) modernization of civil aircraft in the Russian Federation; (3) transfer of civil aircraft registered (subject to registration) in the Russian Federation under lease agreements.

These amendments are aimed at stimulating the registration in Russia of aircraft operated by Russian airlines, as well as the creation of domestic civil aircraft. The amendments will enter into force on 1 January 2020.

On 4 October, the Russian Federal Ministry of Labor approved professional Standard for aerodrome civil aviation workers. The Standard contains detailed description of labor functions carried out within airfield maintenance and current repair activities which are the following: works on airfield and aerodrome maintenance and repair; and management and organization of the works on airfield maintenance and repair. It should be noted that in accordance with Art. 195.3 of the Labor Code of the Russian Federation, this Standard is not mandatory due to the lack of regulatory legal acts establishing requirements for the qualification of employees who perform the listed labor functions. At the same time it can be used by employers as a basis for determining employees qualification requirements.

On October 21, the Federal Government included the Moscow Zhukovsky Airport in the "tax free" system - namely the system of compensation to foreign citizens of the value added tax (VAT) paid within the price of goods purchased from retailers and exported outside the customs territory of the Eurasian Economic Union. The pilot project of the tax free system was launched in the Russian Federation in 2018. Procedure and conditions for tax compensation are established by article 169.1 of the Tax Code of the Russian Federation. Detailed information is also available on the Federal Ministry of Industry and Trade website at: <http://minpromtorg.gov.ru/activities/industry/otrasli/trade/taxfree/>.



The EU recently adopted the Commission Implementing Regulation (EU) No. 2019/1583 amending Implementing Regulation (EU) No. 2015/1998 laying down detailed measures for the implementation of the common basic standards on aviation security, as regards cybersecurity measures. The new implementing regulation provides further specification as to the protection of civil aviation critical information and communication technology systems and data from cyber threats. In particular, by also amending Regulation (EU) No. 300/2008, the recently adopted piece of legislation is primarily directed to airport operators and air carriers, as well as to entities as identified by national aviation authorities in the broad context of the identification of security and cybersecurity programme, and in the delineation of professional, educational and training requirements of personnel responsible for security control.

On 27 September, the EU and Japan signed an infrastructure agreement to link Europe and Asia as a counter to China's ambitious 'Belt and Road strategy'. The new EU-Japan agreement stresses out the importance of connectivity and sustainability as pillars of the project. Notably, against this backdrop, the European Commission recommended that the Council begins negotiations for an EU-Japan agreement, through which allowing the exchange, transfer and use of passenger name record (PNR) data in order to jointly prevent and combat terrorism and international crime. Such an agreement would represent the fourth PNR agreement of the EU (PNR agreements are already in force with the US, Australia and Canada) and would mark a significant step towards a full cooperation between the EU and Japan.

September 2019 will also be remembered because of the dramatic collapse of the British holiday company Thomas Cook. The chaos generated by this financial crisis led the German government to announce the grant of a "bridge" loan to the German air carrier Condor Airlines, subsidiary of the now defunct Thomas Cook Group, in order to secure the continuing of its operations. Interestingly, the EU Commission has already announced that it is in close cooperation with the German authorities and if necessary, will launch an investigation under EU state aid rules as contained in art. 107 of the Treaty on the Functioning of the European Union.

A remarkable step in the regulation of the operations of unmanned aircraft systems (UAS) in Europe was achieved on 10 October with the publication by the European Union Safety Aviation Agency (EASA) of Acceptable Means of Compliance (AMC) and Guidance Material (GM), which will serve to further specify requirements and characteristics of the operations of UAS of the so-called 'open' and 'specified' categories.

The above material is conceived to provide support to EU member States in complying with the EU Drone Regulations (Regulation 2019/945 and Regulation 2019/947) adopted last May 2019. The document includes the description of a risk assessment methodology to evaluate the danger of an UAS operation and to identify mitigation measures to make the operation safe. The methodology for conducting a risk assessment of the operations in the specific category is called SORA (Specific Operation Risk Assessment) and offers a very structured approach to evaluate all aspects and identify mitigations and safety objectives.

Furthermore, the first pre-defined risk assessment (PDRA) will assist operators when applying for an authorisation in the specific category for special UAS operations, such as the ones conducted beyond visual line of sight (BVLOS), using visual observes, over sparsely populated areas or at very low level.

Additional AMC and GM will be drafted and developed in the coming years in order to cover most of the UAS operations conducted in Europe.

EVENTS: SARAH JOANNA HAAS: CULTURAL RICHES AND THE FUTURE OF INTERNATIONAL AVIATION LAW. MY EXPERIENCE OF THE 9TH ST. PETERSBURG AIR LAW CONFERENCE



SARAH JOANNA HAAS

HANNOVER (GERMANY)

LAWYER AT VOGELER RECHTSANWÄLTE

On the 4th October 2019 I was fortunate enough to attend the 9th Scientific Air Law Conference of the AEROHELP Institute of St Petersburg.

As a German qualified lawyer who specializes in aviation litigation, I could not have been more impressed with the depth of knowledge offered by the high-caliber panelists and speakers; It is therefore fair to say that this event combined with the opulent venues and cultural magnificence of St. Petersburg was one to remember personally as well as professionally.

The educated reader might agree that aviation is a fascinating field to work in, albeit a highly complex one. The industry literally overcomes borders and covers broad distances within minutes where the law still has a long way to follow. This is why I was delighted to be able to discuss all topics of aviation not only with fellow lawyers from different jurisdictions but also with aviation professionals. These exchanges are invaluable as they offer deeper insights into the industry itself and ultimately help us to offer higher quality advice to our clients.

And admittedly, sampling some of the finest Caviar in the magnificent Metropole restaurant whilst being introduced to some of the top players in the industry has to be a career highlight for every aspiring aviation lawyer.

It would be hard to imagine a more impressive venue for a conference than the Zubov Mansion of the Russian Institute of Art History where the Conference was held on Friday morning. Equally impressive was the quality of the panelists and speakers.

I cannot thank our host, the formidable Oleg Aksamentov enough and I truly could not imagine a better way to be introduced to the "Aviation Law Family". My greatest thanks also to all the members of the AEROHELP Institute who have made this Conference what it was: A truly amazing, welcoming and inspiring exchange. As I am flying back to Germany, I am already looking forward to the next Air Law Conference in St. Petersburg in 2020.

EVENTS: THE EUROPEAN AVIATION CLUB CONFERENCE "HOT TOPICS IN AVIATION"

The European Aviation Club is pleased to invite to the conference which will be held in Brussels on Monday December 16, 2019 discussing "Hot Topics in Aviation":

- European Commission proposals re Aviation Strategy for Europe
- Airline Insolvency – Airline and passenger protection – Repatriation of stranded Thomas Cook passengers
- Brexit roundtable: Will it ever happen and are we yet any better informed of what will in fact happen if it does?
- Sustainable Aviation: tackling the challenges to ensure a cleaner, quieter and smarter aviation industry.
- Environmental challenges; and what is the future for regional airports?
- Urban Air Mobility: U-Space: from concept to reality.

Venue: The European Economic and Social Committee (EESC) Room JDE 51, Jacques Delors Building, Belliardstraat 99-101, 1000 Brussels.

FOR REGISTRATION, please, write to eac.brussels@gmail.com

EXPERT'S OPINION: **CHRISTEL EROKORITOU: HQ AND OTHERS V AEGEAN AIRLINES** (C-163/18)



CHRISTEL EROKORITOU

NICOSIA (CYPRUS)

EXPERT IN AIR PASSENGERS COMPENSATION FOR CANCELLED, DELAYED AND OVERBOOKED FLIGHTS, LL.M.

Three passengers had purchased a package tour including return flights between Eelde and Corfu via a travel agency established in the Netherlands called Hellas Travel to which the passengers made a direct payment. The flights were planned to be operated by Aegean Airlines.

However, a few days before the departure date, Hellas Travel informed the passengers that Aegean Airlines had cancelled the flights because it could not agree anymore on the charter price with Hellas Travel. Hellas Travel did not offer the passenger alternative transport nor reimbursed them for the cost of the flight tickets. The travel agency was declared insolvent shortly after.

The passengers started legal proceedings against Aegean Airlines before Dutch Courts and were awarded flat rate compensation in accordance the amounts laid down by article 7 of the European Regulation EC 261/2004. The Dutch Court did not rule on whether the airline was liable to reimburse the cost of the air tickets to the passengers and made a request for a preliminary ruling to the Court of Justice of the European Union.

The CJEU ruled that Article 8(2) of Regulation EC 261 must be interpreted as meaning that a passenger who has, under Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours, the right to hold the organizer of his package tour liable, in the event of its cancellation, for repayment of all the sums which he has paid to it under their contract is not entitled to claim reimbursement of the cost of his air ticket from the operating air carrier, on the basis of that regulation, including where the package tour organizer is financially incapable of reimbursing the cost of the ticket and has not taken the safeguard measures necessary to ensure such reimbursement.

The logic of the CJEU was that, deciding differently would be to the detriment of the operating air carrier, which, in that case, would risk having to assume part of the liability of the tour organizer towards its clients in accordance with the contract which it has entered into with them, and the passengers would receive unjustified overcompensation.

Under the Directive 90/314/EEC, tour organizers must provide evidence that they have adequate secured funds to reimburse the passengers in case of insolvency. Member States must pass implementing legislation to transpose such obligations into national law. Failure to do so represents an infringement of EU law entitling passengers to take legal action against the Member State for damage for the financial losses suffered.

EVENTS: **THE CELEBRATING THE 75th ANNIVERSARY OF THE CHICAGO CONVENTION AND ICAO**

- 09:30 – 10:00 Registration and Welcome Coffee
- 10:00 – 10:30 Welcome Address
- 10:30 – 10:45 Opening Remarks
- 10:45 – 11:00 Presentation of the Book “Behind and Beyond the Chicago Convention”
- 11:00 – 12:00 Round Table “The Pivotal Importance of the Chicago Convention in the Era of Innovation and Automation”
- 12:00 – 12:30 Question Time
- 12:30 – 12:45 Closing Remarks
- 12:45 Farewell Cocktail



NEWS OF THE AEROHELP INSTITUTE



РОСКОМНАДЗОР



On September 02, 2019 the Federal Service for Supervision of Communications, Information Technology and Mass Media registered the official journal of the AEROHELP Institute of Air and Space Law - AEROHELP.today, as a Mass Media. The Registration Number is Эл № ФС77-76549.

The International Institute of Air and Space Law of Leiden University and the Sarin Memorial Legal Aid Foundation from India, join forces with East China University of Political Science and Law (ECUPL), the Shanghai International Arbitration Center (SHIAC) and China Eastern to organize the 11th edition of the Leiden – Sarin International Air Law Moot Court Competition, which will be held on 17-19 April 2020 in Shanghai, China.

This year, for the first time, a national round will be organized in Russia. The local organizer responsible for the national round is the Institute of Air and Space Law AEROHELP in St. Petersburg in collaboration with the Russian Arbitration Center in Moscow. The Russian National Round will be held on 10 February 2020 in Moscow.



Professor in Aviation Law, Policy and Regulation from the National University of Singapore Alan Khee-Jin Tan became an Expert at the AEROHELP Institute of Air and Space Law.



Professor of Aviation Law at the University of Ghent, Attorney Mia Wouters became an Expert at the AEROHELP Institute of Air and Space Law.



On October 8-10, 2019, the Coordination Council of the Interstate Aviation Committee for the training of aviation personnel in the form of the seminar “Use of Unmanned Aircraft for Civil Purposes” was held at the Ishembay Abdraimov Kyrgyzstan Aviation Institute.



Arthur Eberg, Specialist in International Air Law, Master of Law and DCL Candidate at McGill University, became an Expert at the AEROHELP Institute of Air and Space Law



During the 12th Annual McGill Conference on International Aviation Liability, Insurance & Finance, October 18-19, 2019 in Montreal, Canada, the professor of Air Law and European Transport Law at Bologna University Anna Masuttil and the Director of the Institute of Air and Space Law AEROHELP Oleg Aksamentov signed the Memorandum of Understanding to promote the mutual academic cooperation between the parties as partners in the field of joint symposiums, seminars, publications and exchange of data relating to Air and Space Law.



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