

**DIARY DATES**

**CORPORATE JET INVESTOR**  
30-31 January 2017  
London, UK  
Francesco Grassetti, speaker

**IATA LEGAL SYMPOSIUM**  
21-23 February 2017  
Washington D.C., USA  
Studio Pierallini, Silver Sponsor  
Laura Pierallini, speaker

**AVIATION AND LAW**  
27-28 March 2017  
Dubai, UAE  
Laura Pierallini, speaker

**LUISS SCHOOL OF LAW  
WORKSHOP ON AIR TRANSPORT LAW –  
A FOCUS ON BREXIT**  
March-June 2017  
Rome, Italy  
Studio Pierallini, organizer

**INTERNATIONAL INSTITUTE OF AIR AND  
SPACE LAW (IIASL) - LEIDEN UNIVERSITY  
“IN PURSUIT OF OPENING SKIES”**  
6 April 2017  
Valletta, Malta  
Laura Pierallini, speaker

**CONTENTS**

**THE LIMITATION REGIME FOR GROUND  
HANDLERS AT ROME FIUMICINO AIRPORT**

**ENAC REPORT ON THE IMPLEMENTATION OF  
INVESTMENT PLANS IN THE MAIN ITALIAN  
AIRPORTS**

**TAX TRIBUNAL DECISION REGARDING  
AIRCRAFT NOISE EMISSIONS**

**LUISS SCHOOL OF LAW COURSE ON AIR  
TRANSPORT - A FOCUS ON BREXIT**



**THE LIMITATION REGIME FOR GROUND  
HANDLERS AT ROME FIUMICINO AIRPORT**

*By Lorenzo Sperati*

As commonly known in the aviation sector, the EC Directive 96/67 - implemented in Italy by way of Law Decree no. 18 of 13 January 1999 - has introduced a free market and free competition rules for the supply of ground handling services within the EU. The ENAC resolution no. 27 of 13 October 2014 limited the number of ground handlers admitted at Rome Fiumicino Airport in connection with the supply of runway operations and baggage, cargo and mail services. In parallel the airport managing company (ADR - *Aeroporti di Roma*) has also issued a public tender to select the admitted operators, which has ended with the award of the handling services to three companies, namely *Aviapartner Handling S.p.A.*, *Aviation Services S.p.A.* and *Alitalia - Società Aerea Italiana S.p.A.*. The mentioned ENAC resolution and the subsequent ADR tender awards have been challenged before the Italian Administrative Courts (namely TAR, *Tribunale Amministrativo Regionale*) by the handlers being excluded from the service. At the

outcome of the preliminary phase, on 15 April 2016 TAR rejected the precautionary request of suspension of the ENAC resolution. Afterwards, on November 2016, TAR rejected the challenges on the merits, arguing that the decision by the CAA was legitimate and so confirming the assignment of handling services to the three awarded companies. In that respect, TAR also confirmed that the selection procedure had been activated by ENAC in order to increase the safety of handling services at Rome Fiumicino Airport. In addition, TAR stated that the CAA decision had fairly addressed the need to maintain the job occupation numbers and that the new system would ensure the improvement of service quality levels for travellers. The Administrative Courts also denied the arguments regarding alleged wrong criteria for the selection of the tender bidders, clarifying that the way ENAC had ruled the selection procedure was compliant with the regulatory framework. Any interested party (e.g. excluded handlers) may now challenge the CAA decision before the Supreme Administrative Court (namely *Consiglio di Stato*) for a judicial review, as the last instance of jurisdiction.

## **ENAC REPORT ON THE IMPLEMENTATION OF INVESTMENT PLANS IN THE MAIN ITALIAN AIRPORTS**

*By Francesco Grasseti*

On 24 January 2017, ENAC published the investment plan report on the implementation of infrastructure investments in the main Italian airports. The report summarizes the whole investments made by the airport managing companies as of 31 December 2016. It also provides a list of the actions planned for the next five years (according to the planning agreements - so called *Contratti di Programma* - entered into during the past years between ENAC and each managing company). In respect of the three largest Italian airports (Rome, Milan and Venice) the report underlines a satisfactory implementation level of the original schedule, considering that the said three airports have invested even more than then amounts originally agreed under the *Contratti di Programma*. Among the concluded projects, worth mentioning are: the new Terminal E at Fiumicino Airport, opened on December 2016 for a total cost of Euro 390 million and expected to serve additional 6 million passengers per year; the enlargement of Terminal 1 of Milan Malpensa Airport, increased of 18 gates for an investment of Euro 120 million; finally, the new “water terminal” and the “moving walkway” at Venice Marco Polo Airport which - along with other air side measures, including the installation of a tri-generation plant - have brought investments for 111 million. Throughout the next five years additional infrastructures are planned to improve the Italian airport system, for an estimated value of Euro 1.75 billion in Rome Fiumicino, Euro 579 million in Milan Linate and Milan Malpensa, and Euro 533 million in Venice Marco Polo. Taking into account expected investments of Euro 4.2 billion on a national scale, the air transport sector can be still considered one of the most important sources for the Italian economy, with a fundamental contribution to the GDP (gross domestic product) both in relation to the creation of new job positions and the construction of value added activities in infrastructure investments.

## **TAX TRIBUNAL DECISION REGARDING AIRCRAFT NOISE EMISSIONS**

*By Gianluigi Ascenzi*

By way of background, the Italian tax on the aircraft noise emissions (IRESA) is charged from 2013 for the noise emissions caused by civil aircraft during the take-off and landing operations at any Italian airport. The amount of the tax is determined by each Region on

the basis of the aircraft maximum take-off weight and the noise levels certified by the ICAO for each aircraft type. Aircraft types with MTOW below 4.5 tons benefit of a tax exemption, alike the State aircraft (i.e. owned by the Italian government or other public bodies) and aircraft engaged in fire-fighting, rescue operations and medical or emergency services. Also historical aircraft (being registered for more than 40 years) and aircraft used for training purposes have a tax-exempt status. At the outcome of a tax refund claim started by a private operator, on 16 December 2016, the Tax Tribunal of Rome (*Commissione Tributaria*) declared that the Regional law no. 2/2013 - introducing the IRESA in the Lazio Region - is in breach of the national law no. 342/2000, implementing Directive 30/2002 (CE) and providing for the tax incomes to be destined to the management and reduction of the social costs arising from the aircraft noise emissions (e.g. airport monitoring systems; anti-pollution measures; indemnification of communities living nearby airports). In particular the Tax Tribunal noted that Lazio Region is used to allocate the majority of the IRESA incomes for its general financial needs, while only a 10% of such incomes is spent for the environmental and social purposes established at a national and European level. On such basis the Tribunal resolved not to apply the Regional law no. 2/2013 to the subject proceeding and ordered Lazio Region to reimburse to the claimant the amounts spent to settle the tax, plus legal costs. The strict position taken by the Tax Tribunal of Rome is certainly remarkable and should bring Lazio Region, from now onwards, to properly allocate the IRESA incomes in accordance with the guidelines set out by the Italian and European sources.

## **LUISS SCHOOL OF LAW COURSE ON AIR TRANSPORT - A FOCUS ON BREXIT**

*By Francesco Paolo Ballirano*

LUISS School of Law and Studio Pierallini organize the first course of air transport law which will take place in Rome from March to June 2017. The course will be organized in three sessions (17/18 March, 12/13 May and 9/10 June). All lecturers are experts from the air transport sector. The course is intended for training specialists in civil aviation, integrating the basic concepts with a deeper analysis of the relevant national and international laws and regulations, as well as in respect of the main agreements used within the aviation industry. On the occasion of the last session and the end of the course a seminar on the effects of Brexit for the air transport industry will take place, with the attendance, among others, of Mr. John Balfour of Clyde & Co international law firm in London.