

DIARY DATES

**UA SPECIFIC CATEGORY OPERATIONS
MANAGEMENT
ADVANCED TRAINING COURSE**
8-12 March 2022
Rome, Italy
Laura Pierallini, Professor

CORPORATE JET INVESTOR
8-9 March 2022
London, United Kingdom
Francesco Grassetti, Attendee

**EMBRY-RIDDLE AVIATION LAW & INSURANCE
SYMPOSIUM**
11-14 May 2022
Orlando, USA
Laura Pierallini, Speaker

**NEW SUPREME COURT JUDGEMENT
ON COMPENSATION FOR DAMAGES.**

By Marco Marchegiani

On 9 April 2021 the Italian Supreme Court ruled on a very interesting case for damages involving all three levels of judgement. By way of background, two Italian passengers sued Aeroflot Russian Airlines - the national air carrier based in Moscow - before the Justice of the Peace of Catania (Sicily). The purpose for the claim was to obtain compensation for damages due to a delay on the Shanghai/Moscow flight, as a result of which they had missed the coincidence for another flight on the route Rome/Catania. The Italian Justice of the Peace accepted the claimant's request and ordered Aeroflot to compensate the passenger, considering applicable to the case the EC Regulation 261/04. This decision, after the appeal filed by Aeroflot, was also confirmed in the second instance by the Court of Catania. In this case the Court considered not applicable the 1999 Montreal Convention nor the EC Regulation 261/04.

However it decided to apply by analogy article 3 of EC Regulation 261/04, despite the concerned first leg flight connected two airports located outside the European Union and the fact that Aeroflot is an extra-EU carrier. Against this decision Aeroflot challenged this second instance decision before the Italian Supreme Court, which completely overturned the previous judges stating that the provisions of EC Regulation 261/04 cannot be applied by analogy, given the exceptional nature of the Regulation itself. Indeed, according to

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the Supreme Court, the EC Regulation 261/2004 provides a strict liability for airlines regardless of the existence of damages and the causal link with the debtor's conduct. The Italian Supreme Court has ruled that Article 1223 of the Italian Civil Code (liability for non-performance or delay) shall apply in this case, which obliges the debtor to compensate only those damages that are a direct and immediate consequence of its breach, as well as Article 2697 of the Civil Code (burden of proof), stating that the burden of proof lies with the claimant. However, on this matter the Supreme Court has found that the airline's default resulted in a flight delay which is not a breach of the contract of carriage, but only an inexact performance which does not cause a significant prejudice (beyond the "benefits and advantages" extraneous to the contract of carriage, e.g. loss of profit or consequential damages) and so the right to a compensation of damages.

15TH EUROCONTROL THINK PAPER: ANALYSIS OF TRAFFIC DATA IN 2021 AND OUTLOOK FOR 2022

By Francesco Paolo Ballirano

The 15th Eurocontrol Think Paper issued on 1st January 2022 provided an authoritative summary of all the key indicators for the European aviation industry in 2021 and expectations about how the recovery will continue in 2022.

The paper shows how the recovery of the sector in Europe has been partial but stable during 2021, starting from 36% compared to the traffic figures recorded in January 2019 to 70% at the end of August, mainly thanks to mass vaccinations and the European Union's Green Pass digital certificate, with a further traffic increasing up to 81% registered at the end of October.

In the last quarter of 2021, the evolving "Omicron" variant situation forced many of Europe's major airlines to reduce their flight capacity in January 2022 by up to 30% as well as cancelling numerous flights due to shortages of pilots and flight crews who had tested positive for Covid-19.

Nevertheless, the study conducted by Eurocontrol does not expect the substantial increase recorded last year to be reduced in 2022. On the contrary, it is estimated that traffic will still be on track to recover to 70-90% of pre-pandemic levels by the end of 2022.

UNMANNED VEHICLES AND NEW TECHNOLOGIES OF THE FUTURE

By Giulio Teofilatto

In January, the "ENAC National Strategic Plan for Development of Advanced Air Mobility" was presented at the international convention hosted at the Ridolfi Airport in Forlì.

The Italian Civil Aviation Authority, alongside its role as regulator in the aeronautical field, has nowadays assumed more than ever a leading role on technological and scientific competences, functional to the development of the sector with particular attention to the social needs and environmental issues.

A clear example of this role is the *National Strategic Plan for Development of Advanced Air Mobility (2021/2030)* which also contains a 59-point "Road Map" and an integrated Business Plan, with the

aim of creating a system capable of integrating new types of mobility, in order to carry out cargo and passenger transport operations in urban and extra-urban areas through the use of advanced aircraft, also without on-board pilots. Among the main objectives of the Plan are the issuance of regulations responding to the needs of new technologies being implemented and investment models combining efforts of the public and private sectors.

As regards to the Urban Air Mobility, it was highlighted that the prototypes already implemented are a good starting point for the effective adoption of such aircraft in a few years' time, notwithstanding the need of several enabling factors for the development process, such as clear legislation, technological aspects linked to aircraft, as well as physical and digital infrastructures. At the end of the event, the ENAC's Director General stressed the great ambition of a programme such as the one presented in Forlì Airport, especially in a period in which the aeronautical sector has been strongly penalized by the effects of the pandemic, and reiterated how strategic it is for ENAC to have a continuous dialogue with the universities and research world, in order to collaborate on innovative projects of great scope such as Advanced Air Mobility.

AIRLINES IN TRANSIT: SEMINAR AT THE LUISS UNIVERSITY IN ROME

On 5 February 2022, LUISS Guido Carli University (the Italian university for law and economics studies promoted by the association of the Italian manufacturing and service companies, "Confindustria") and Pierallini Studio Legale will be hosting the aviation seminar named "Airlines in Transit".

The discussion will focus on the strengths and weaknesses of airlines, that are not only mobile but also precious and vulnerable assets exposed to trade, economic, climate and health conditions. Expert and experienced speakers will concisely address the multifaceted legal and policy questions affecting these events and transactions in a round table discussion, whereas invited aviation professionals will comment and ask questions.