

THE AVIATION LAW  
REVIEW

EIGHTH EDITION

Editor  
Sean Gates

THE LAWREVIEWS

THE AVIATION LAW  
REVIEW

EIGHTH EDITION

Reproduced with permission from Law Business Research Ltd  
This article was first published in July 2020  
For further information please contact [Nick.Barette@thelawreviews.co.uk](mailto:Nick.Barette@thelawreviews.co.uk)

**Editor**  
Sean Gates

THE LAWREVIEWS

PUBLISHER

Tom Barnes

SENIOR BUSINESS DEVELOPMENT MANAGER

Nick Barette

BUSINESS DEVELOPMENT MANAGER

Joel Woods

SENIOR ACCOUNT MANAGERS

Pere Aspinall, Jack Bagnall

ACCOUNT MANAGERS

Olivia Budd, Katie Hodgetts, Reece Whelan

PRODUCT MARKETING EXECUTIVE

Rebecca Mogridge

RESEARCH LEAD

Kieran Hansen

EDITORIAL COORDINATOR

Gavin Jordan

PRODUCTION AND OPERATIONS DIRECTOR

Adam Myers

PRODUCTION EDITOR

Martin Roach

SUBEDITOR

Carole McMurray

CHIEF EXECUTIVE OFFICER

Nick Brailey

Published in the United Kingdom  
by Law Business Research Ltd, London  
Meridian House, 34–35 Farringdon Street, London, EC4A 4HL, UK  
© 2020 Law Business Research Ltd  
[www.TheLawReviews.co.uk](http://www.TheLawReviews.co.uk)

No photocopying: copyright licences do not apply.

The information provided in this publication is general and may not apply in a specific situation, nor does it necessarily represent the views of authors' firms or their clients. Legal advice should always be sought before taking any legal action based on the information provided. The publishers accept no responsibility for any acts or omissions contained herein. Although the information provided was accurate as at July 2020, be advised that this is a developing area.

Enquiries concerning reproduction should be sent to Law Business Research, at the address above.

Enquiries concerning editorial content should be directed  
to the Publisher – [tom.barnes@lbresearch.com](mailto:tom.barnes@lbresearch.com)

ISBN 978-1-83862-435-4

Printed in Great Britain by  
Encompass Print Solutions, Derbyshire  
Tel: 0844 2480 112

# ACKNOWLEDGEMENTS

The publisher acknowledges and thanks the following for their assistance throughout the preparation of this book:

ANJARWALLA & KHANNA LLP

AUGUSTA ABOGADOS

CALLENDERS & CO

CLYDE & CO LLP

COLIN BIGGERS & PAISLEY

CONYERS

DE LUCA, DERENUSSON, SCHUTTOFF ADVOGADOS

GATES AVIATION LTD

GONDAR & ASOCIADOS

GRANDALL LAW FIRM (BEIJING)

IORDACHE PARTNERS

JAROLIM PARTNER RECHTSANWÄLTE GMBH

JIPYONG LLC

KENNEDYS

KROMANN REUMERT

MAPLES GROUP

PHOEBUS, CHRISTOS CLERIDES & ASSOCIATES LLC

RAJA, DARRYL & LOH

R&P LEGAL

SCHILLER RECHTSANWÄLTE AG

SHAHID LAW FIRM

S HOROWITZ & CO

SMATSA – SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES LLC

SQUIRE PATTON BOGGS

URWANTSCHKY DANGEL BORST AND PARTNERS

# CONTENTS

PREFACE.....	vii
<i>Sean Gates</i>	
Chapter 1	COVID-19 IMPACT ON AVIATION CONTRACTS..... 1
<i>Sean Gates, Dimitri de Bournonville, Joanna Langlade, Peter Urwantschky and Claudia Hess</i>	
Chapter 2	WILL COVID-19 CHANGE EU 261 – FOR BETTER OR WORSE? ..... 5
<i>Sean Gates, Dimitri de Bournonville, Joanna Langlade, Peter Urwantschky and Claudia Hess</i>	
Chapter 3	ARGENTINA..... 8
<i>Ana Luisa Gondar</i>	
Chapter 4	AUSTRALIA..... 23
<i>Andrew Tulloch</i>	
Chapter 5	AUSTRIA..... 36
<i>Dieter Altenburger and Azra Dizdarevic</i>	
Chapter 6	BAHAMAS ..... 49
<i>Llewellyn V Boyer-Cartwright</i>	
Chapter 7	BELGIUM ..... 59
<i>Dimitri de Bournonville and Kim Verhaeghe</i>	
Chapter 8	BERMUDA ..... 70
<i>Julie McLean and Angela Atherden</i>	
Chapter 9	BRAZIL..... 79
<i>Ana Luisa Castro Cunha Derenusson, Rita de Cassia Fernandes de Godoy, Isabel Sevzatian Silveira, Julia Gazineu Machado Sanches and Ingrid Santos Alves Rosa</i>	
Chapter 10	BRITISH VIRGIN ISLANDS ..... 93
<i>Audrey M Robertson</i>	

Chapter 11	CAYMAN ISLANDS .....	97
	<i>Wanda Ebanks and Shari Howell</i>	
Chapter 12	CHINA.....	109
	<i>Gao Feng</i>	
Chapter 13	CYPRUS.....	120
	<i>Christos Clerides and Andrea Nicolaou</i>	
Chapter 14	DENMARK.....	133
	<i>Jens Rostock-Jensen and Jakob Dabl Mikkelsen</i>	
Chapter 15	DOMINICAN REPUBLIC.....	143
	<i>Rhina Marielle Martínez Brea and María Pía García Henríquez</i>	
Chapter 16	EGYPT .....	157
	<i>Tarek Badawy</i>	
Chapter 17	EUROPEAN UNION.....	168
	<i>Dimitri de Bournonville and Joanna Langlade</i>	
Chapter 18	FRANCE.....	190
	<i>Aurélia Cadain and Nicolas Bouckaert</i>	
Chapter 19	ISRAEL.....	203
	<i>Eyal Doron and Hugh Kowarsky</i>	
Chapter 20	ITALY .....	220
	<i>Anna Masutti</i>	
Chapter 21	JAPAN .....	240
	<i>Tomobiko Kamimura and Miki Kamiya</i>	
Chapter 22	KENYA.....	252
	<i>Sonal Sejpal and Fred Mogotu</i>	
Chapter 23	MALAYSIA .....	271
	<i>Chong Kok Seng and Chew Phye Keat</i>	
Chapter 24	ROMANIA .....	288
	<i>Adrian Iordache and Raluca Danciu</i>	

## Contents

---

Chapter 25	RUSSIA .....	299
	<i>Alexandra Rodina</i>	
Chapter 26	SERBIA .....	312
	<i>Goran Petrović</i>	
Chapter 27	SOUTH KOREA .....	330
	<i>Chang Young Kwon, Marc Kyuha Baek and Jane Young Sohn</i>	
Chapter 28	SPAIN.....	344
	<i>Sergi Giménez Binder</i>	
Chapter 29	SWITZERLAND .....	354
	<i>Heinrich Hempel and Daniel Maritz</i>	
Chapter 30	UNITED KINGDOM .....	367
	<i>Robert Lawson QC and Jess Harman</i>	
Appendix 1	ABOUT THE AUTHORS.....	385
Appendix 2	CONTRIBUTORS' CONTACT DETAILS.....	403

# PREFACE

I am delighted to continue to be associated with *The Aviation Law Review*, of which this is the eighth edition. Aviation continues to be among The Law Reviews' most successful publications; its readership has been vastly enhanced by making it accessible online to over 12,000 in-house counsel, as well as subscribers to Bloomberg Law and LexisNexis. This year I welcome new contributions from France, South Korea and Spain, plus two new chapters concerning covid-19, as well as extending my thanks and gratitude to our other new contributors and to our regular contributors for their continued support. Readers will appreciate that contributors voluntarily donate considerable time and effort needed to make these contributions as useful as possible to them. All contributors are selected based on their knowledge and experience in aviation law, and we are fortunate to enjoy their support.

Covid-19 is inevitably the focus of attention in our sector as in all others. The loss of life is the paramount concern and dominates one's thoughts. However, the commercial devastation also has consequences for the wellbeing of humanity given the financial damage it is wreaking, which is particularly pronounced in the travel industry. With airlines grounded by travel bans and the closure of airspace, all the participants in the industry at large are facing financial collapse as revenue disappears and fixed costs remain. Lessors still need to be paid, routine maintenance cannot be ignored, staff have to be paid or discharged, and even with the patchwork of governmental support around the world, there are bound to be many who fail and a few, not necessarily among the most efficient, that survive. At the time of writing, it is too early to forecast the landscape post pandemic, but it will certainly be changed forever, with probably the most significant impacts on leisure and regional carriage, the former being more expensive to address distancing practices and the latter with their smaller balance sheets being less able to withstand the loss of revenue.

Much has been written on the question of whether contractual liabilities will be impacted by the consequences of the pandemic, and in this edition I am pleased to have worked with colleagues in Belgium and Germany, to whom I extend my thanks, on articles addressing these issues and on EU 261. The latter is a work of the Commission in progress at the time of writing with short- and long-term discussions ongoing concerning the pernicious effects of this extensively juridically rewritten regulation. The outcome of those discussions is awaited, albeit with some dread!

When I last wrote this preface, the shocking B737 Max disaster was unfolding. The method of self-approval adopted by Boeing with the support of the FAA has been the subject of much criticism, the more so since approval by the FAA has routinely been followed by other regulators hitherto without serious challenge and because the FAA was the last, rather than the first, influential regulator to ground the type following the two fatal accidents. The consequences are still unfolding, but in the meantime, Boeing has managed to refinance itself

and continues to deal with the claims of airlines whose fleets were grounded pre pandemic. The intervention of that virus may have perversely given the company some relief from its continuing obligations, though the damage to its reputation for trustworthiness will take longer to repair, leaving Airbus in a much stronger position. In addition, the ending of the merger talks with Embraer may lead to the reemergence of the latter as challenger in at least the single aisle jet market. The Federal Bureau of Investigation continues its criminal investigation of the certification of the type, following the establishment of a grand jury investigation of the certification process and the investigations based on the embarrassing disclosures of emails from within Boeing graphically charting the recognition of their engineers of the unsafety of the type.

It is hoped EASA will reconsider its reliance on other regulators' type certificates, as well as any reliance it places on European manufacturers for type approval. The cost of adequate regulation in all jurisdictions must be met centrally, as was heavily recommended as long ago as 2000 in the Rand Institute's report 'Safety in the Skies' on the aviation accident investigation process. The appetite of the EU in this respect and the willingness of Member States to pay in the current financial and political environment, are not reliable grounds for optimism in this respect.

The impact of Brexit on European aviation remains unclear with the latest indications being that a comprehensive deal may not be reached, though an arrangement regarding traffic rights is likely to be made regardless. Major carriers are securing air operator certificates from within states in the EU, and some are also now ensuring they satisfy the European tests for majority ownership. How IAG manages its interests in BA and Iberia/Aer Lingus will be of particular interest.

The second European Aviation Environmental Report (EAER) was published last year and provided an updated assessment of the environmental performance of the aviation sector published in the first report of 2016. It reports that continued growth of the sector has produced economic benefits and connectivity within Europe and is stimulating investment in novel technology but recognised that the contribution of aviation activities to climate change, noise and air quality impacts had increased, thereby affecting the health and quality of life of European citizens. Indeed, air pollution has repeatedly been identified as a factor in covid-19. The impact of the pandemic on environmental pollution has been well documented, and the reduction in air travel has contributed to this. There is pressure to attempt to secure the environmental benefits of the lockdown on a more long-term basis, which might accelerate the development of new technologies. If Member States would stop pandering to solipsistic sectional national and labour interests to permit the true operation of the Single European Sky ATM Research (SESAR) programme, massive environmental advantages could be secured, but as usual incompetent short-termism seems likely to prevail in politics to the detriment of industry and the environment. It is hoped one day we will see an unfettered SESAR introduced, although the decision by the EU to prevent UK carriers from using carbon offsets does not suggest an overwhelming dedication to the environment.

The UK airline insolvency review was established by the Chancellor to research better ways to deal with the collapse of airlines following the numerous recent high profile airline bankruptcies of Monarch, Thomas Cook, Flybe and others. The review has now reported. The obvious solution adopted elsewhere of using the assets of the insolvent airline to repatriate its customers is one of the alternatives recommended and it is hoped, notwithstanding the current stasis in legislation in the UK for other reasons, will be one given urgent attention. The creation of a special administration regime changing the purpose of an

airline's administration to the repatriation of its passengers as a first priority over payment of creditors and ensuring payments of salaries and costs during rescue efforts would enormously mitigate the cost otherwise imposed on taxpayers via the UK government's current approach of arranging and paying for alternative air transport from other operators where inevitably the rates charged are at the highest end of the spectrum. The government has yet to publish a formal response. However, on 25 September 2019, in response to questions about the collapse of Thomas Cook, the Secretary of State for Transport, Grant Shapps, told the House that the government would be looking at the reforms proposed by the review. In a subsequent letter to Lilian Greenwood, Chair of the Transport Committee, the Secretary of State wrote that he was determined to bring in a better system for dealing with airline insolvency and repatriation. The Queen's Speech delivered on 14 October 2019 included proposals for legislation on airline insolvency. Subsequent events have of course delayed the process but hopefully when normal services are resumed this too will be addressed.

The pandemic has highlighted the benefits of drone technology with medical and other supplies being delivered to vulnerable individuals and population centres by use of the technology. Airport closures have of course ceased to be a factor in the current times, but seem likely to resume and possibly even increase, led by environmental groups seeking to address the perceived threat of the industry to the environment. Various jurisdictions are contemplating a range of responses including tighter regulations on the use of drones over a low mass, and registration and insurance requirements for operators of larger and commercial vehicles. New technologies to counter potentially disastrous encounters with commercial aircraft are being developed, but inevitably these solutions will be met by new challenges in the remotely piloted vehicle arms race.

Once again, I would like to extend my thanks to the many contributors to this volume and welcome those who have joined the group. Their studied, careful and insightful contributions are much appreciated by all those who now refer to *The Aviation Law Review* as one of their frontline resources.

**Sean Gates**

Gates Aviation Ltd  
London  
July 2020

# SWITZERLAND

*Heinrich Hempel and Daniel Maritz<sup>1</sup>*

## I INTRODUCTION

Switzerland is a democratic state with a modern society and an advanced and open economy. Even though geographically in the centre of Europe, it is not a member of the European Union or the European Economic Area, but of the European Free Trade Association (EFTA). The EU and its Member States are the most important trading partners of Switzerland. Therefore, close cooperation with the EU and its Member States is instrumental for Swiss politics and economy. Cooperation was institutionalised with the bilateral agreements between Switzerland and the EU, which cover various areas, including air transport.<sup>2</sup>

Aviation plays an important role in Switzerland. Zurich Airport (2019: 31.5 million passengers) is one of the major European airports and a hub for Swiss International Airlines Ltd, the Swiss national carrier that is part of Lufthansa Group and a member of Star Alliance. The two other national airports are those of Geneva (2019: 17.9 million passengers) and Basel-Mulhouse-Freiburg, the tri-national EuroAirport on French territory (2019: 9.1 million passengers). However, air traffic has drastically fallen since March 2020 due to the measures and travel restrictions imposed by governments worldwide to combat the covid-19 (coronavirus) pandemic. In April 2020, flight movements at Zurich Airport have dropped to levels as of the early days of civil aviation in the 1950s. At the time of writing (June 2020), the long-term impact of the covid-19 pandemic on the aviation industry cannot be finally assessed.

Civil aviation is governed by the Swiss Aviation Act<sup>3</sup> and numerous implementing ordinances. Switzerland is party to most international treaties in the field of aviation, including the Chicago Convention of 1944, the Geneva Convention of 1948, the Warsaw Convention of 1929 and the Montreal Convention of 1999. Switzerland also signed the Cape Town Convention of 2001; however, it is not yet in force. Based on the EU–CH Agreement on Air Transport, aviation-related EU legislation is also applicable in Switzerland; usually, European law is implemented a few months or a few years later than in the EU.

---

1 Heinrich Hempel and Daniel Maritz are partners at Schiller Rechtsanwälte AG.

2 Agreement between the European Community and the Swiss Confederation on Air Transport of 21 June 1999 (SR 0.748.127.192.68; the EU–CH Agreement on Air Transport).

3 Federal Act on Aviation of 21 December 1948 (SR 748.0; the Aviation Act).

## II LEGAL FRAMEWORK FOR LIABILITY

Liability for carriage is shaped by international law. Switzerland is a party to the Montreal and Warsaw Conventions. Based on the EU–CH Agreement on Air Transport, Regulation (EC) No. 2027/97, as amended by Regulation (EC) No. 889/2002, Regulation (EC) No. 785/2004 and Regulation (EC) No. 261/2004 are applicable also in Switzerland. To the extent liability for carriage does not fall within the scope of these international treaties and EU Regulations, liability has to be determined either based on the Air Transport Ordinance (see below) or in accordance with general legislation on liability.

The Aviation Act contains special provisions for damage caused by aircraft in flight to persons and objects on the ground. Where no special legislation has been adopted, aviation is subject to the same legislation as all other industries.

### i International carriage

Switzerland is a party to the Warsaw and Montreal Conventions. Based on Regulation (EC) No. 2027/97, as amended by Regulation (EC) No. 889/2002, the liability for international carriage by Swiss or EU carriers for passengers and baggage has to be determined in accordance with the Montreal Convention even if this treaty is not applicable. The carriers are also obligated to make an advance payment as provided by Article 5 of this Regulation. Issues not covered by the Warsaw or Montreal Convention or the Regulation, such as, for instance, the validity of contract or the calculation of damages, have to be determined in accordance with general contract or tort law.

### ii Internal and other non-convention carriage

Switzerland also implemented the Montreal system of liability into its national legislation by enacting the Air Transport Ordinance<sup>4</sup> when the Montreal Convention was ratified. The Ordinance applies to certain internal and other flights not covered by the international treaties or EU law.

In substance, liability under the Air Transport Ordinance is more or less the same as under the Montreal Convention. However, certain differences exist. In particular, the Ordinance does not stipulate a place of jurisdiction. Therefore, certain actions based on the Ordinance may not be brought before the court at the domicile of the passenger (see Article 33(2) of the Montreal Convention for claims thereunder).

### iii General aviation regulation

Carriage by aircraft for reward as well as carriage by an air transport undertaking (for reward or gratuitous) either fall under the Montreal Convention or the Regulation (EC) No. 2027/97 (international carriage or carriage by an EU carrier), or under the Air Transport Ordinance (national carriage or international carriage not covered by the Montreal Convention or Regulation (EC) No. 2027/97).

In cases of gratuitous carriage by other, non-licensed carriers, the above legal instruments do not apply. Liability has to be determined in accordance with general contract and tort law

---

4 Ordinance on Air Transport of 17 August 2005 (SR 748.411; the Air Transport Ordinance). The competence to enact such an important piece of legislation in an ordinance (enacted by the governmental body), and not in a federal act (enacted by parliament), is provided for in Article 75 of the Aviation Act. This provision, however, constrains the government to use the applicable international treaties as guidance.

that is found in the Code of Obligations.<sup>5</sup> If the flight is a mere courtesy to the passenger, there may be no contract and liability may have to be based on tort.<sup>6</sup> A reduced standard of care applies, but there is no limitation of the liability amount in statutory provisions. The parties may by agreement limit the liability within the limits provided by the Code of Obligations (in particular, according to Article 100(1) of the Code of Obligations, the exclusion for unlawful intent and gross negligence is deemed void). For this reason, private pilots often require a reward and issue a document of carriage so the Air Transport Ordinance applies.

The above system regarding the liability of carriers to passengers (and transported goods) applies to all types of aircraft, such as aeroplanes, helicopters, airships, balloons, 'ecolight' aircraft, etc.

Further, Article 64 et seq. of the Aviation Act provide for an unlimited strict no-fault liability of the operator for any damage to persons and objects on the ground caused by an aircraft in flight or by any person or object falling therefrom. 'In flight' encompasses, according to Article 64(3) of the Aviation Act, the time from the beginning of the departure manoeuvre until the end of the landing manoeuvre, thus excluding, for example, damage caused during taxiing. In the event of a collision of two or more aircraft, the operators of these aircraft are jointly and severally liable to the claimant (the internal distribution of the damage follows the ordinary rules on recovery between jointly liable parties). The Aviation Act does not provide for an exclusion or reduction of liability if a third party or an act of God was the cause of the accident. However, for damage caused by a person on board the aircraft and not being a crew member, the operator's liability is limited to the minimum insurance to be taken (see Section V). In the event of an act of terrorism by a person who is not on board the aircraft, it is arguable that, by analogy, the same liability limitation applies.

#### **iv Passenger rights**

Switzerland has not enacted specific legislation concerning passenger rights but, based on the EU–CH Agreement on Air Transport, Regulation (EC) No. 261/2004 is applicable in Switzerland.<sup>7</sup> According to the introductory comments in the Annex of the Agreement listing the applicable EU Acts, references to EU Member States in such Acts shall, for the purpose of the Agreement, be understood to equally apply to Switzerland, and the term 'Community air carrier' shall include an air carrier having its principal place of business in Switzerland. Further, Article 1(2) of the Agreement provides that Acts mentioned in the Annex of the Agreement shall be interpreted in conformity with decisions of the Court of Justice of the European Union (CJEU) and the European Commission rendered prior to the date of signature of the Agreement (21 June 1999), and decisions rendered after that date shall be communicated to Switzerland and their implications shall be determined by the Joint Committee, which is composed of Swiss and EU representatives to ensure the proper implementation of the EU–CH Agreement on Air Transport. The scope and content of these provisions give rise to several questions; in particular the following.

The EU–CH Agreement on Air Transport grants traffic rights to EU carriers and Swiss carriers between any point in Switzerland and any point in the EU (Article 15 of the Agreement). In particular this limitation of the territorial scope of the Agreement gives rise

---

5 Federal Act on the Amendment of the Swiss Civil Code (Part Five: the Code of Obligations) of 30 March 1911 (SR 220; the Code of Obligations).

6 BGE 137 III 539.

7 AS 2006 5987.

to the argument that Regulation (EC) 261/2004 is not applicable to flights from Switzerland to a country outside the EU or EFTA. A Basel court declined application to flights to and from third countries. The German Federal Court of Justice, in its decision of 9 April 2013,<sup>8</sup> submitted this question to the CJEU, but the proceedings were completed without addressing the issue.

Decisions of the CJEU rendered after the adoption of Regulation (EC) No. 261/2004 were not officially communicated to Switzerland. Therefore, the direct application particularly of the following judgments in Switzerland is questionable: *Wallentin-Hermann*,<sup>9</sup> where the CJEU applied a restrictive interpretation of ‘extraordinary circumstances’ of Article 5(3) of the Regulation; and *Sturgeon*<sup>10</sup> and related decisions, in which the CJEU introduced an obligation to pay compensation in the event of a delay of three hours or more. The Swiss courts are not bound by these decisions, but they are, of course, free to follow them. The District Court of Bulach confirmed this in a decision of 2 February 2016. Based on an interpretation of Regulation (EC) No. 261/2004 in accordance with the standards applicable in Switzerland, the Court held that passengers are not entitled to compensation in the event of delay.

## v Other legislation

The aviation sector is submitted to the same general liability rules applicable to all businesses in Switzerland. However, specific provisions for the aviation sector apply based on the EU–CH Agreement on Air Transport. Particularly, EU competition law applies to all cases where trade between the EU and Switzerland may be affected (see Section VI, for more details). In addition, product liability law may grant a legal basis for claims against manufacturers or importers of aircraft (see Section VIII.iii).

## III LICENSING OF OPERATIONS

### i Licensed activities

Commercial carriage of passengers or cargo requires a licence from the Swiss civil aviation authority, the Federal Office for Civil Aviation (FOCA).<sup>11</sup> Air transport is deemed commercial if it is offered to an undefined number of customers and any form of remuneration has to be paid to cover the costs of use of the aircraft, the fuel, airport and air transport services.<sup>12</sup> All flights of licensed operators are considered commercial.<sup>13</sup>

Aviation law distinguishes between services provided by national carriers and services provided by foreign carriers. A national carrier may fly within the Swiss territory as well as to and from foreign destinations to the extent permitted under the bilateral agreements of Switzerland with other states. A foreign carrier may serve only the routes between Switzerland and its home state as provided by such bilateral agreements of Switzerland with the home state.

---

8 Judgment of the Federal Court of Justice of Germany of 9 April 2013, Case X ZR 105/12.

9 Judgment of the CJEU of 22 December 2008, *Wallentin-Hermann v. Alitalia*, Case C-549/07.

10 Judgment of the CJEU of 19 November 2009, *Sturgeon et al. v. Condor et al.*, Joined Cases C/402-07 and C/432-07.

11 Article 27(1) of the Aviation Act.

12 Article 100(1) of the Ordinance on Aviation of 14 November 1973 (SR 748.01; the Aviation Ordinance).

13 Article 100(2) of the Aviation Ordinance.

A national carrier must meet the following requirements<sup>14</sup> (for foreign carriers see Section III.iii):

- a* the undertaking meets the ownership requirements described in Section III.ii;
- b* the undertaking has the technical qualification and organisation required to ensure the safe and, to the extent feasible, ecological operation of aircraft. In particular, it must hold an air operator certificate (AOC) covering the services to be rendered. The AOC is issued by the FOCA in accordance with the European Operation Regulation<sup>15</sup> and the International Civil Aviation Organization (ICAO) five phases model;
- c* the undertaking disposes of the number of aircraft required for the intended use, and such aircraft are registered in Switzerland or in another state that, based on a bilateral agreement, allows use equal to that of the Swiss registration. At least one aircraft must be owned by the undertaking or leased for a period of six or more months;
- d* the undertaking has the right to use the airport at the place of operation to the extent required to provide the services;
- e* the undertaking has sufficient insurance cover;
- f* the aircraft meet the actual technical standards, at least the internationally agreed minimal standards, regarding noise and pollution; and
- g* operators of aeroplanes and helicopters are required to introduce and maintain a safety management system in accordance with ICAO Standards and Recommended Practices.

Undertakings that operate balloons, gliders or special categories of aircraft are exempt from some of the above requirements. Special licences may be granted for short-term operations or a limited number of flights.

Pursuant to Article 28 of the Aviation Act, commercial carriage of passengers or cargo on a specific route additionally requires an authorisation by the FOCA. However, this does not apply to destinations in the EU and EFTA. Based on the EU–CH Agreement on Air Transport and Regulation (EC) No. 1008/2008, every Swiss and EU/EFTA carrier may serve any routes between Switzerland on the one hand and EU/EFTA Member States on the other. Swiss carriers may also serve routes between EU/EFTA Member States. The authorisation to serve routes between Switzerland and non-EU/EFTA states on a regular basis is granted to national carriers for a limited period only. The operator requires an operating licence in accordance with Article 27 of the Aviation Act. The FOCA has to take into account the public interest and how the national airports are served. In its application the operator has to submit route plans, timetables, tariffs, information about the aircraft that shall be used, cooperation agreements with other airlines and information about the commercial aspects of the operation. Other airlines that could operate the same route are involved in the proceedings. For its decision, the FOCA will take into account the effect on competition as well as economical and ecological aspects. The maximum term for the authorisation is eight years but it is renewable. The authorisation can be transferred to another operator with the consent of the FOCA.

---

14 Article 27 of the Aviation Act and Article 103 et seq. of the Aviation Ordinance.

15 Council Regulation (EEC) 3922/91.

## ii Ownership rules

A national carrier is a company with domicile in Switzerland. It must be registered in the Swiss commercial registry, have the objective to commercially operate aircraft and be owned and controlled by a majority of Swiss citizens or companies controlled by a majority of Swiss citizens. The EU–CH Agreement on Air Transport provides, however, that EU and Swiss companies shall be treated alike. This means that a national carrier may also be owned and controlled by a majority of Swiss or EU/EFTA companies or citizens.

This only applies, however, to the relation between Switzerland and EU/EFTA states. With respect to the relation between Switzerland and non-EU/EFTA states, the respective bilateral agreements with the non-EU/EFTA states define the nationality requirement. While Switzerland favours liberalised definitions that focus on the place of business and also allow ownership and control by foreign individuals or companies, many bilateral agreements rely on traditional strict ownership requirements.

The undertaking must further be economically sound and have a reliable accounting system. The undertaking has to demonstrate that it can likely meet its obligations for a period of 24 months from the start of operations and meet its fixed and operational costs incurred by operations according to its business plan for a period of three months from the start of operations without taking into account any income from its operations.

## iii Foreign carriers

Undertakings with a domicile outside Switzerland that commercially carry passengers or cargo to and from Switzerland require an operating licence unless an international agreement provides for an exemption. Such an exemption can be found in particular in the EU–CH Agreement on Air Transport and the agreement on air transport of the EFTA states.<sup>16</sup> EU/EFTA operating licences are accepted in Switzerland (as are Swiss operating licences in EU/EFTA Member States).

A non-EU/EFTA undertaking will be granted the operating licence if:

- a* it holds a licence of its home state for the international carriage of passengers and cargo;
- b* it is under the effective supervision by the authorities of its home state in technical and organisational respects;
- c* it can ensure the safe and, to the extent feasible, ecological operation of aircraft in accordance with internationally agreed standards;
- d* the grant of licence does not violate essential Swiss interests;
- e* the home state of the undertaking grants licences to Swiss carriers to the same extent as Switzerland does to the carriers of such a state;
- f* liability for damages on the ground is covered; and
- g* there is sufficient insurance cover for other third-party liability.

As national carriers, also foreign carriers, including EU/EFTA carriers, require an authorisation for commercial carriage of passengers or cargo on a specific route to and from non-EU/EFTA states. Such authorisations will be granted in accordance with the bilateral agreements of Switzerland with the non-EU/EFTA states. The FOCA is also free to grant an authorisation if there is no basis in a bilateral agreement.

---

<sup>16</sup> Annex Q (Air transport) to the Convention establishing the European Free Trade Association of 4 January 1960 (SR 0.632.31).

#### **IV SAFETY**

Based on the EU–CH Agreement on Air Transport, the EU Regulations on safety are also applicable in Switzerland. The Swiss authorities strive for the highest possible safety standards in accordance with EU legislation and ICAO Standards and Recommended Practices.

#### **V INSURANCE**

Based on the EU–CH Agreement on Air Transport, the revised Regulation (EC) No. 785/2004 is also applicable in Switzerland. In accordance with this Regulation, air carriers and aircraft operators flying within, into, out of, or over Swiss territory have to meet the following level of insurance:

Insurance in respect of the operator's liability for damage caused by an aircraft in flight to persons and objects on the ground: the minimum insurance cover depends on the take-off weight. It starts at 750,000 special drawing rights (SDR) for a take-off weight of below 500 kilograms and reaches 700 million SDR for a take-off weight of 500 tons or more. The Swiss authorities may request evidence of compliance in the event of overflights by non-EU/EFTA carriers or aircraft registered outside EU/EFTA as well as with respect to stops by such aircraft for non-traffic purposes.

Insurance in respect of liability for passengers, baggage and cargo: the minimum insurance cover shall be 250,000 SDR per passenger for bodily injury (100,000 SDR in respect of non-commercial operations by aircraft with a minimum take-off weight of 2,700 kilograms or less), 1,131 SDR per passenger for baggage in commercial operations and 19 SDR per kilogram for cargo in commercial operations. These requirements do not apply to flights over Swiss territory carried out by non-EU/EFTA carriers or by operators using aircraft registered outside the territory of the EU/EFTA.

The law does not include any provisions on how the insurance cover has to be evidenced.

#### **VI COMPETITION**

Article 8 et seq. of the EU–CH Agreement on Air Transport prohibit agreements and concerted practices between undertakings with anticompetitive effects as well as the abuse of a dominant position. According to these provisions, such anticompetitive behaviour shall be controlled by the EU institutions in accordance with Community legislation, taking into account the need for close cooperation between EU and Swiss authorities. Only anticompetitive behaviour that exclusively affects trade within Switzerland shall be subject to Swiss law and remain under the competence of the Swiss authorities. Thus, standards of EU competition law apply also in the relation between Switzerland and the EU.

Swiss competition law prohibits agreements or conduct that eliminate or substantially restrict trade without having beneficial economical effects. Heavy fines may be imposed on undertakings – not, however, on individuals – for anticompetitive behaviour. Swiss competition law further provides for a merger control.

Cooperation agreements will usually affect trade in the EU and therefore be controlled by the EU authorities in accordance with EU law. There is no case law as to merely national cooperation agreements concerning aviation.

## VII WRONGFUL DEATH

In the event of wrongful death, the ensuing expenses, in particular the funeral expenses, shall be compensated (Article 45 of the Code of Obligations). Persons who lose their source of support are entitled to compensation for this loss, including the household damage (i.e., compensation for the loss of the deceased's contribution to the daily chores). Further, persons close to the deceased – spouse, children, parents – are entitled to compensation for pain and suffering (moral damages) up to an amount of 50,000 Swiss francs. See Section VIII.iv.

## VIII ESTABLISHING LIABILITY AND SETTLEMENT

### i Procedure

Usually, in liability cases the parties first try to reach an amicable solution. If the dispute cannot be settled out of court, the claimant may bring an action against the defendants before the competent court. The proceedings are governed by the Civil Procedure Code.<sup>17</sup>

In principle, the ordinary civil courts are competent for liability disputes. However, before the litigation starts, usually an attempt at conciliation has to be made before a conciliation authority. In the four cantons, Aargau, Berne, Zurich and St Gallen, however, specialised commercial courts are competent to adjudicate commercial cases (e.g., disputes between insurers) if the value in dispute is at least 30,000 Swiss francs. In these cases, no conciliation proceedings will be held. Parties can bring the case before an arbitral tribunal if they have concluded an arbitration agreement.

The limitation periods for bringing the claim to court are part of substantive law. Liability claims under a contract of carriage against the carrier have to be brought within a period of two years from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped (Article 35(1) of the Montreal Convention; Article 14 of the Air Transport Ordinance). This two-year limitation cannot be extended, thus the claim is forfeited if the action is not brought before the expiration of this limitation.

Claims against the operator for personal or property damage on the ground caused by an aircraft in flight, have to be brought within one year from the date when the claimant could have knowledge of the damage and the liable party, in any event no later than three years after the accident. This statutory limitation period can be waived by the defendant or interrupted by debt enforcement proceedings. In addition, any time limitation may be met by application for conciliation (if applicable), or submission of a statement of claim to a court or arbitral tribunal in due time.

The plaintiff can bring an action for compensation against one or more of jointly and severally liable defendants, for example against the carrier (for breach of contract), against the manufacturer (for product liability) or against a third party (action in tort). However, there is no direct claim against the liability insurer of the carrier. The plaintiff can choose to sue only one or more of the possible defendants (for a joinder of actions the court must have jurisdiction against all defendants under the applicable jurisdictional provisions). A party (usually the defendant) may notify a third party of the dispute if, in the event of being unsuccessful, the notifying party might take recourse against a third party (third-party

---

17 Swiss Civil Procedure Code of 19 December 2008 (SR 272).

notice). In addition, the notifying party may bring an action against the notified third party in the court that is dealing with the main action in the event that the notifying party is unsuccessful (third-party action).

Where two or more parties are jointly and severally liable, recovery can be sought based on Article 50 et seq. of the Code of Obligations. The damage has to be borne first by the party liable in tort, second by the party in breach of contractual obligation and third by the party deemed liable by statutory provision. A recent decision of the Federal Supreme Court lifted the barriers to recovery by insurers (see Section XI).

Civil litigation may be complemented by criminal prosecution, for example against a pilot for bodily injury caused by negligence, or against any person breaching a generally accepted rule of transportation and endangering persons or goods on the ground (Article 90 of the Aviation Act). Further, criminal sanctions may be imposed on the operator in the event of repeated or serious breach of obligations towards passengers under international treaties (Article 91(4) of the Aviation Act). This provision was adopted in particular to address breaches of Regulation (EC) No. 261/2004. In certain instances, for example, in the event of bodily injury, civil claims may be brought in the criminal proceedings.

## **ii Carriers' liability towards passengers and third parties**

The court forms its opinion based on its free assessment of the evidence (Article 157 of the Civil Procedure Code). It is up to the parties to present to the court the facts in support of their case and submit the related evidence (Article 55(1) of the Civil Procedure Code). According to Article 8 of the Civil Code,<sup>18</sup> the burden of proving the existence of an alleged fact rests on the party deriving rights from that fact. Therefore, it is, in principle, up to the plaintiff to assert the relevant facts, and to establish them, so that the court may award compensation.

The liability of carriers under the Montreal Convention and under the Air Transport Ordinance is, in principle, a liability for breach of contractual obligations. The plaintiff has to prove the damage that occurred because of an accident on board or during embarking or disembarking that caused the death or bodily injury of a passenger. The carrier is liable for personal injury of passengers up to the amount of 113,300 SDR irrespective of whether or not the carrier committed a fault. If the plaintiff claims higher compensation, the carrier is liable for damages exceeding the mentioned limits unless it proves that the damage: (1) was not the result of the negligence or other wrongful act or omission of the carrier or its servants or agents; or (2) that such damage was solely the result of the negligence or other wrongful act or omission of a third party.

Claims for damage to persons and objects on the ground caused by an aircraft in flight are based on a strict liability of the operator (no fault of the operator is required).

In principle, Swiss law does not limit the liability. For certain exceptions, see Section II.iii.

## **iii Product liability**

The Swiss Product Liability Act<sup>19</sup> provides for an extra-contractual strict liability of the manufacturer or importer for damage caused by product defects. The Swiss Product Liability Act is largely in line with the Directive 85/374/EEC of 25 July 1985 concerning liability for defective products.

---

18 Swiss Civil Code of 10 December 1907 (SR 210).

19 Federal Act on Product Liability of 18 June 1993 (SR 221.112.944; the Product Liability Act).

The Product Liability Act particularly provides for compensation in personal injury cases. The amount of compensation in the event of death or bodily injury and the possible amounts for moral damages are established according to the relevant provisions in the Code of Obligations (see Section VIII.iv). Damage to property only entitles the claimant to compensation if the product is ordinarily intended for private use or consumption. The commercial user of an aircraft, for example, is not entitled to bring a claim under the Product Liability Act against the manufacturer or importer of the aircraft. In the event of damage to commercially used products, the claimant may possibly base a claim alternatively on Article 55 of the Code of Obligations (liability of the employer for damage caused by its employees or ancillary staff).

According to Article 7 of the Product Liability Act, several parties liable for a damage caused by a defective product are jointly and severally liable. According to leading authors in Switzerland, the joint and several liability also applies if the other party is liable on a legal basis other than the Product Liability Act. Therefore, in the event of an air accident, the manufacturer and the carrier may be jointly and severally liable. The internal distribution of the damage will be established in accordance with Article 51 of the Code of Obligations (see Section VIII.i).

The statutory limitation for product liability claims is three years from the date when the party suffering harm has or should have knowledge of the damage and the liable party; in any case, the claim expires 10 years after the date when the product was put into circulation (Articles 9 and 10 of the Product Liability Act).

#### **iv Compensation**

In principle, Swiss law requires that the claimant substantiates and proves the damage, the unlawfulness of the damage, a sufficient causal link between damaging conduct and damage, and (if required by the respective legal basis) negligence or other wrongful conduct of the wrongdoer. These requirements will be elaborated in further detail below.

Swiss law is based on the principle that the economic damage has to be compensated, neither more nor less. Compensation will be awarded if and to the extent the unlawful conduct caused a reduction of assets or an increase of debts. Damages, therefore, are established as the difference between the actual financial situation of the claimant as a consequence of the incident on the one hand, and the hypothetical financial situation without the incident on the other hand. In this regard, Swiss law accepts various compensable types of damage. In personal injury cases, damage owing to death or bodily injury includes any financial consequences of the death or injury, for example, funeral costs, medical costs and loss of income. In addition, reasonable and adequate costs for legal representation have to be compensated. Finally, damage interest of 5 per cent has to be paid for the time between the date when the damage occurred until the date of payment. An abstract loss of use without causing costs, will normally not qualify for compensation. For example, frustration owing to the impossibility of going on vacation does not give rise to a claim for compensation. As an exception to the calculation and compensation of the actual loss or damage, the household damage can be calculated abstractly. Where a person can no longer, or only to a reduced extent, do the household chores because of injury or death, the damage will be established irrespective of whether or not there actually is a financial damage. It suffices to establish what a substitute would cost. The household damage is usually calculated based on statistical data with regard to a person of the same gender, similar age and family situation (number of people in the same household) as the deceased or injured.

Liability requires an unlawful act or omission. Any violation of the human body or integrity and any damage to property is unlawful, and all damage that is the consequence of such a violation is to be compensated. The causation of mere financial damage is unlawful only if a contract or a specific legal provision prohibiting such conduct is violated. This distinction may be relevant in cases where a party is only indirectly damaged because of the damage of another party, for example the employer in the case of bodily injury to its employee, or a creditor in the case of the death of his or her debtor. In principle, the (third) party suffering indirect damage is not entitled to compensation. There is one exception provided in Article 45(3) of the Code of Obligations. Where somebody is deprived of his or her means of support as a result of homicide, he or she is entitled to compensation for that loss. Such damages owing to loss of support are often at stake in cases of death of a passenger in an aircraft accident, particularly for claims of the widow or the widower and the children of the deceased.

In addition, there must be a sufficient causal link between the unlawful conduct and the damage. Acts of God, gross contributory negligence of the injured, or gross contributory negligence of a third party may exclude liability. In the event of contributory negligence of the injured the compensation may be reduced. In cases of strict liability (such as the liability of the operator for damage caused by an aircraft in flight on the ground), even gross negligence of the injured or of third parties does not exclude liability.

In most aviation law cases, the liability of the carrier is irrespective of the question whether the carrier is at fault. This is certainly true for the claims of the injured based on the strict liability under Article 64 of the Aviation Act (see Section II.iii). In personal injury cases concerning passengers, the question of fault may (only) be of relevance for damage exceeding the amounts stipulated in Article 21 of the Montreal Convention and Article 7 of the Air Transport Ordinance: (1) if such damage was not the result of the negligence or other wrongful act or omission of the carrier or its servants or agents; or (2) if such damage was solely the result of the negligence or other wrongful act or omission of a third party.

If liability is established according to the above, there may be an additional claim for moral damages. In cases of death or personal injury, the court may award the victim of personal injury or the dependants an appropriate sum. The amounts to be awarded depend on the relevant circumstances in the individual case. In cases of serious bodily injury leading to invalidity, the injured may be entitled to moral damages of up to 200,000 Swiss francs. The next of kin are also entitled to moral damages. For example, a widow may be entitled to approximately 50,000 Swiss francs in the event of the death of her husband, similarly in the event of serious bodily injury of the husband; a child to 30,000 Swiss francs in the event of the death of the child's father or mother. In addition, unmarried partners are entitled to claim moral damages in the event of the death or serious bodily injury of their partner.

In personal injury cases, there are usually payments of social security institutions. For example, accident insurance pays medical costs, daily allowances in the event of loss of income and a pension if the accident causes permanent incapacity to work. There may be additional payments of the invalidity insurance or (in the event of death) the survivors' insurance. Additionally, the pension fund may make payments to the injured or his or her next of kin. The payments of such institutions have to be deducted from the compensation owed to them by the liable party insofar as they are intended to cover the damage. The social security institutions subrogate into the claims of the insured (or their survivors respectively)

up to the amount of the payments made based on social security law. The insured (or their survivors) are only entitled to claim compensation from the liable party for the remaining damage not covered by such social security institutions (the direct damage).

## **IX DRONES**

Drones (i.e., remotely controlled, usually very small aircraft) are subject to the same legislation as model aircraft.

The criteria for the operation of drones with a weight of up to 30 kilograms are specified in the Ordinance on Special Category Aircraft. The general rule is that drones weighing less than 30 kilograms may be operated without a permit, as long as the operator maintains visual contact with the device at all times. Also, drone flights using video eyewear do not require a special permit as long as direct eye contact can be established with the drone at any time. FOCA authorisation is required in all other cases, in particular in the absence of direct eye contact.

Prior authorisation is required to operate a drone within 5 kilometres of landing fields and heliports. There is an interactive map published by the FOCA which shows the locations where restrictions and bans apply.<sup>20</sup>

Further, it is prohibited to operate a drone above gathering people without authorisation of the FOCA. Plain standard application forms exist for weddings and company events.

## **X VOLUNTARY REPORTING**

Switzerland introduced a system for voluntary reporting in 2011. On 1 April 2016, this system was replaced by Regulations (EU) Nos. 376/2014 and 2015/1018, which are applicable in Switzerland based on the EU–CH Agreement on Air Transport. The Regulations provide for mandatory reporting of occurrences that may present a serious risk, encourage voluntary reporting and protect the information source to some degree.

The website of the FOCA includes comprehensive information and refers to the EASA website for the submission of requests.

## **XI THE YEAR IN REVIEW**

Since 2001 the overflight of southern German territory, which is essential for the traditional northern approach of Zurich Airport, has been a major issue in the relations between Switzerland and Germany. Unilateral limitations of overflight by Germany, designed to protect the German population from noise, forced the airport to change the approach. As a consequence, a considerable part of the population living near the airport is exposed to noise beyond the limits that should not be exceeded. The ratification of a bilateral agreement seems destined to fail, thus leaving the issue unresolved. The unilateral restrictions by Germany adversely affect Zurich Airport's capacity. The federal government is examining various measures to enhance capacity. On 23 August 2017, the Federal Council approved the Sectoral Plan for Aviation Infrastructure for the future development of Zurich Airport, which will

---

20 See <https://www.bazl.admin.ch/bazl/en/home/good-to-know/drones-and-aircraft-models/drohnenkarte.html>.

enhance the airport's capacity. Yet, because of the unilateral restrictions by Germany, certain approach and take-off routes cannot be implemented, which means that various noise-related issues remain unresolved. Strong opposition is therefore to be expected.

The Federal Supreme Court changed its practice to the recovery of insurers in its landmark decision of 7 May 2018.<sup>21</sup> In the past, recovery claims by certain insurers (e.g., hull insurers) required negligence, and in many cases even gross negligence or wilful misconduct of the tortfeasor. Based on the new decision, the insurer may seek recovery whenever the insured party is entitled to a claim against the tortfeasor.

## XII OUTLOOK

The most important issue for the aviation sector worldwide as well as in Switzerland is and will remain to overcome the consequences of the covid-19 pandemic. The current crisis will have an impact on aviation not only in 2020, but likely also in the next few years. The Swiss government grants financial aid to the aviation industry to secure its survival.

Discussions regarding the overflight of southern Germany (see Section XI) will continue as Germany is pushing hard to further reduce the number of flights over this territory. Political discourse about Zurich Airport's capacity will continue with uncertain results. Future passenger claims in Swiss courts may lead to more Swiss precedents and thus contribute to further clarification of open questions regarding Regulation (EC) No. 261/2004 (see Section II.iv).

Furthermore, Brexit will affect aviation not only between the EU and the United Kingdom but also between the United Kingdom and Switzerland. Switzerland and the United Kingdom entered into a bilateral agreement which provides that the existing traffic rights survive Brexit.

The proposed Regulation of the EU on safeguarding competition in air transport, repealing Regulation (EC) No. 868/2004, will also be implemented in Switzerland in accordance with the EU–CH Agreement on Air Transport. The interpretative guidelines on Regulation (EC) No. 1008/2008 – rules on ownership and control of EU air carriers of 16 June 2017 will presumably be taken into consideration by Swiss authorities, even if not yet formally applicable.

---

21 BGE 144 III 209.

## ABOUT THE AUTHORS

### HEINRICH HEMPEL

*Schiller Rechtsanwälte AG*

Heinrich Hempel is a partner at Schiller Rechtsanwälte. Over the past decades, Schiller Rechtsanwälte has been involved in all major cases of accidents affecting Swiss airlines or passengers. Heinrich Hempel has practised aviation law since he joined Schiller Rechtsanwälte. He advises international and national airlines and insurers, as well as airports and other clients in the field of aviation on cases including liability and regulatory matters. He represents these clients in civil as well as in administrative and criminal proceedings.

Heinrich Hempel graduated from Zurich University in 1987 and obtained a doctorate degree from Zurich University in 1991 and an LLM from Columbia Law School, New York in 1996. He was admitted to the Bar in 1993. He was a clerk at the District Court of Bülach, joined Schiller Rechtsanwälte in 1993 and became a partner in 1997.

Heinrich Hempel also practises general contract and commercial law. He lectures on aviation law at the Zurich University of Applied Sciences and is the author of a number of aviation-related articles in various publications, including the *Cologne Compendium on Air Law in Europe*. He is also an author of the Basel Commentary on the Civil Procedure Code, for which he wrote on the jurisdiction for tort claims. He is president of the Swiss Aviation and Space Law Association.

### DANIEL MARITZ

*Schiller Rechtsanwälte AG*

Daniel Maritz is a partner at Schiller Rechtsanwälte. As a certified specialist by the Swiss Bar Association in torts and insurance law, he has specialised in all aspects of liability and insurance law, including social security law. He advises national and international insurers and aircraft operators, and represents his clients before courts and governmental bodies.

Daniel Maritz graduated from the University of St Gallen Law School in 1988. He was admitted to the Bar in Switzerland in 1992. He obtained a Master of Laws (LLM) from the Vrije Universiteit Brussel in Brussels, Belgium in 1993. He has worked as clerk to a judge at the Zurich Court of Commerce and as a legal adviser in the Integration Office of the Federal Department of Foreign Affairs and of the Department of Economics (relations between Switzerland and the EU).

Daniel Maritz also practises general contract and commercial law. He has published in the fields of aviation law, liability and insurance law, and general commercial law. He is president of the Zurich Bar Association.

**SCHILLER RECHTSANWÄLTE AG**

Kasinostrasse 2

PO Box 1507

8401 Winterthur

Switzerland

Tel: +41 52 269 16 16

Fax: +41 52 269 16 00

[hempel@schillerlegal.ch](mailto:hempel@schillerlegal.ch)

[maritz@schillerlegal.ch](mailto:maritz@schillerlegal.ch)

[www.schillerlegal.ch](http://www.schillerlegal.ch)

an LBR business

ISBN 978-1-83862-435-4