

## Recent Issues of Regulation of International Carriage by Air

### *Summary*

The purpose of my thesis is the analysis of regulation of international carriage by air where currently co-exist two regimes based on different international conventions. The Warsaw Convention was the first instrument that unified body of rules governing the international carriage by air, especially the most important areas: the arrangement of documents of carriage and the carrier's liability. Its most significant feature is the limited liability for sustained damages in case of death, wounding or any other bodily injury of passengers, in addition based on fault. It has been considered as deeply protective to air carriers. The only character in favor of passengers is the shifted burden of proof so that the airlines are presumed liable unless they can meet the necessary measures standards. Huge discontent with this regulation led to entering into arrangements that modified the Warsaw Convention. Non-uniformity of this regime has been the cause of adoption of new Montreal Convention which incorporates most of relevant norms contained in arrangements which modified the Warsaw Convention. Thus the Montreal convention contains some provisions of the Guatemala Protocol, the Guadalajara Convention and Montreal Protocols III and IV. The new convention substantially changes the liability regime imposing two-tiered liability system – the liability without proof of fault up to 100.000 SDRs and fault liability regime to unlimited amount. However, the Montreal Convention did not retrieve any insufficiency of the previous convention. Neither the Warsaw Convention nor the Montreal Convention defines terms “accident”, “bodily injury” or “delay”.

The European Union accepted some regulations in order to ensure rights of passengers. The most significant one, the Regulation No. 261/2004, has been claimed to be ignoring the exclusivity of the Montreal Convention. The European Court of Justice ruled on that there is consistency with the Montreal Convention nevertheless.