# **General Index Volume XVII**

# Leading articles

| Arrigoni, N.                            | Joint Aviation Authorities: development of an international standard for safety regulation            | 130 |
|---|---|-----|
| Barrett, J. and Pilkington, M.          | CAAC Guanghzou hi-jacking: insurance issues   | 133 |
| Christopherson, T. and Bax, JH.         | Eurocontrol: UK detention rights  | 2   |
| Chronas, A.D.                           | Certain recent developments in Greek aviation law under a Community law perspective                   | 297 |
| Clumpkens, R.                           | The role of the notary under the law of the Netherlands   | 118 |
| Crans, B.J.H.                           | Selected pitfalls and booby-traps in aircraft finance   | 43  |
| le Gall, JP. and<br>Reeb, S.            | Tax and security law aspects of aircraft financing – France   | 87  |
| Giemulla, E. and Schmid, R.             | Who owns the time? Legal problems regarding slots   | 9   |
| Goris, W. and Jakhian, G.               | Security rights in aircraft under Belgian law   | 61  |
| Günther, K. and<br>Erbacher, P.         | Aspects of aircraft leasing in Germany  | 92  |
| Hofland, D.                             | Tax aspects of aircraft leasing in The Netherlands  | 53  |
| Hughes, N.                              | Eurocontrol and airport liens   | 137 |
| Kaiser, S.A.                            | The legal status of ekranoplanes  | 286 |
| Kaiser, S.A.                            | Will the WARC '92 threaten ICAO's Future Air Navigation Systems?                                      | 17  |
| Leshem, M.                              | Israel: recent aviation law developments  | 178 |
| López Antón, F. and Falcón Ravelo, J.F. | Aircraft financing in Spain   | 104 |
| Martin, P.                              | Open letter   | 147 |
| van Mierlo, T.I.M.                      | Dutch security rights in aircraft and engines   | 111 |
| Müller-Rostin, W.                       | Air carrier's liability for surface transportation  | 291 |
| Platt, J.R.                             | The creation of a Community cabotage area and its implications for the U.S. bilateral aviation system | 183 |
| Polak, M.V.                             | Conflict of laws in the air   | 78  |
| Schmid, R.                              | Air transport within the European Single Market   | 199 |
| Wassenbergh, H.A.                       | International air transport: regulatory approaches in the nineties                                    | 68  |
| Whalen, T.J. and<br>Lynes, T.J.         | Foreign ownership of U.S. registered aircraft: the voting trust                                       | 153 |
| Wilkinson, R.                           | Aviation insurance: some developments   | 206 |

# Notes and comments

| Brenner, D.I. | Recent aviation developments in Canada | 227 |
|---------------|--|-----|



# EC aviation scene

| Loozen, E.M.H.                         | EMH   | 28         |
|--|---|------------|
| Crans, B.J.H. and Loo<br>Crans, B.J.H. | zen, E.M.H.   | 160<br>217 |
|  |   |            |
| Case law and con                       | nments  |            |
| van Baren, W.H.                        | Discriminatory refusal of carriage by air   | 164        |
| Guerreri, G.                           | The airport operator: aircarrier's agent or independent contractor?                     | 231        |
| Harris, R.                             | Service bulletins and airworthiness certificates: a Canadian perspective                | 235        |
| Kilbride, D.A.                         | Article 25 revisited  | 237        |
| Schmid, R.                             | Must a passenger refund the costs for an emergency landing due to medical reasons?      | 310        |
| Case law digest                        |   |            |
| News from internation                  | onal organizations 30, 1  | 70, 312    |
| van Dam, R.D.                          | ICAO  | 125        |
| van Dam, R.D.                          | 28th Session of the Legal Committee   | 224        |
| van Dam, R.D.                          | Accident Investigation Divisional meeting   | 226        |
| I.H.Ph.                                | The International Institute of Space Law  | 311        |
| Reports of confer                      | rences  |            |
| von der Dunk, F.G.                     | The spaceplane and the law. A dream to come true?                                       | 20         |
| Hughes, N.                             | The eighth annual Aviation Law Operations and Claims Conference                         | 22         |
| Murray, K.I.                           | Tenth annual conference of the Aviation Law Association of<br>Australia and New Zealand | 25         |
| Book reviews                           | 39, 127, 1  | 75, 322    |
| Bibliography                           |   |            |
| Heere, W.P.                            | Bibliography of air law 1991  | 239        |
|  |   |            |

### **Abbreviations**

ACSSP Air Carriers Standard Security Program (FAA)

AIG Accident Investigation (ICAO)

AMSS Aeronautical Mobile Satellite Service

ANC Air Navigation Commission (ICAO)

ATM Air Traffic Management

Avi CCH Aviation Reports (Chicago IL)

AW&ST Aviation Week and Space Technology (USA)

CAA Civil Aviation Authority (UK)

CAAC Civil Aviation Authority of China (PR China)

CAB Civil Aeronautics Board (USA)
CFR Code of Federal Regulations (USA)
CMLR Common Market Law Review

CNS Communications, Navigation and Surveillance

CRS Computerized Reservation Systems

DoT Department of Transportation (USA)

EC European Community

ECAC European Civil Aviation Conference ECLR European Competition Law Review

ECR European Court Reports

EEC European Economic Community
EJPR European Journal of Political Research

ELR European Law Review

FAA Federal Aviation Administration (USA)

IATA International Air Transport Association
ICAO International Civil Aviation Organization

ICJ International Court of Justice
IISL International Institute of Space Law

JAA Joint Aviation Authorities (ECAC)
JAR Joint Aviation Requirements (JAA)
JCMS Journal of Common Market Studies

MFN Most Favored Nation

NJW Neue Juristische Wochenschrift (Germany)

NvwZ Neue Zs für Verwaltungsrecht

NYII. Netherlands Yearbook of International Law

OJ Official Journal (EC)

PICC People's Insurance Company of China (Pr China)

RFDA Revue Française de Droit Aérien et Spatial

TranspR Transportrecht (Germany)
VersR Versicherungsrecht (Germany)

WARC World Administrative Radio Conference (ITU)

ZLW Zeitschrift für Luft- und Weltraumrecht (Germany)

# Subject index

|  | and neighbours, 266                      |
|--|--|
| Abandonment, 276                           | birdstrikes, 266                         |
| Accidents, 275                             | operators, 231, 266                      |
| definition, 287                            | security, 276                            |
| incidents, 166, 226                        | slots, 9, 268                            |
| investigation, 26, 35, 166, 226, 275       | taxes, 137, 266                          |
| use of documents, 26, 36, 167, 275         | Airspace                                 |
| Administration                             | sovereignty, 254                         |
| national authorities, 254                  | Antitrust                                |
| Agents, 232, 274                           | EC, 7, 22, 176, 300, 304                 |
| Agreements, See Conventions                | ASECNA, 267                              |
| Air carriage                               | Australia, 252                           |
| discrimination, 164                        | accident investigation, 26               |
| Air carriers                               | aviation policy, 25                      |
| See also Community Air Carriers            | Aviation companies, 256                  |
| duties, 269                                | Community air carriers, 69, 72, 217, 305 |
| nationality, 68, 299                       | competition, 256, 312                    |
| surface transportation, 291                | mergers, 257                             |
| trucking, 291                              | nationality, 256                         |
| Air law                                    | Aviation industry                        |
| bibliographies, 239, 246                   | protectionism, 75                        |
| case law, 252                              | Aviation personnel                       |
| conferences, 20, 22, 25, 245               | aircraft commander, 127, 265             |
| encyclopedia, 128                          | drugs, 168                               |
| manuals, 245                               | liability, 265                           |
| Air mail, 272                              | licences, 265                            |
| Air Traffic Control                        | working conditions, 264                  |
| ASECNA, 267                                | Aviation police, 276                     |
| Eurocontrol, 2, 51, 137, 142, 263, 266     | Aviation policy, 25, 255                 |
| general, 266                               | 111 action policy, 23, 233               |
| liability, 266, 312, 315                   | Baggage, 172, 313, 315                   |
| Air warfare, 278                           | Bankruptcy, 258                          |
| Air waybill, 269, 296, 314                 | Belgium, 246                             |
| Aircraft                                   | security rights in aircraft, 61          |
| certification, 130                         | Bibliographies of air law, 239, 246      |
| commander, 127, 265                        | Bilaterals, 68, 255                      |
| construction, 263, 278                     | Birdstrikes, 266                         |
| definition, 61                             | Bureau Veritas, 263                      |
| detention, 2, 263                          | Durcau Veritas, 205                      |
| finance, 43 ff                             | Cabotage, 74, 183, 221, 255              |
| interception, 168                          | EC, 183, 221                             |
| maintenance, 137                           | Canada, 250                              |
| mortgages, 43, 63                          | damages, 229                             |
| nationality, 61                            | insurance, 227                           |
| registration, 61, 262                      | Cargo                                    |
| reparations, 137                           |  |
| rights in –, 80, 264                       | air waybill, 269, 296, 314               |
|  | declaration of value, 315                |
| small aircraft, 262<br>spaceplace, 20, 262 | delay, 320<br>liability, 321             |
| Airlines, See Aviation companies           | •  |
| •  | notice, 170                              |
| Airports                                   | partial loss, 315                        |

| Carriage by air                          | terrorism, 277                           |
|--|--|
| discrimination, 164                      | CRS, 73, 269                             |
| drugs, 144                               | EC regulation, 73                        |
| Case law, 252                            | US regulation, 73                        |
| Cause of action, 170                     |  |
| Certification of aircraft                | Dangerous goods, 272                     |
| JAA, 130                                 | Delay, 170, 272, 315, 320                |
| Champerty, 33                            | Deregulation                             |
| Chicago Convention 1944, 185, 246        | EC, 259                                  |
| Art. 7, 186                              | USA, 251                                 |
| Art. 30, 225                             | Detention of aircraft, 2, 263            |
| Art. 83 bis, 225                         | Eurocontrol, 2, 137                      |
| China PR, 252                            | Disarmament, 278                         |
| carrier liability, 133                   | Discrimination                           |
| 1990 hijacking, 210                      | in air carriage, 169                     |
| Choice of law, 33, 174, 274              | Drugs, 51, 144, 168, 276                 |
| Claims, 31                               | UK, 144                                  |
| amount of compensation, 274              | <b>5-2,</b> 2 · · ·                      |
| cause of action, 170                     | EC, 28, 127, 160, 199, 217, 259          |
| choice of law, 33, 174, 274              | 1993, 307                                |
| damages, 35, 229                         | air transport policy, 199                |
| forums, 32, 173, 274, 316, 321           | cabotage, 74, 183, 221                   |
| FSIA, 34, 174, 274                       | Community air carriers, 69, 72, 217, 305 |
| law of evidence, 274                     | competition, 7, 176, 300, 304            |
| limitations, 171, 173                    | control of baggage, 161                  |
| who can bring the action, 33, 274        | CRS, 73                                  |
| CMR, 292                                 | customs duties, 163                      |
| Code-sharing, 72                         | environment, 23                          |
| Collisions, 35                           | Factortame, 69, 305                      |
| Commercial rights, See Traffic Rights    | fares, 163, 222                          |
| Community air carriers, 69, 72, 217, 305 | freedoms, 74                             |
| Competition, 256                         | leasing, 220                             |
| case law, 312                            | licensing of airlines, 217, 307          |
| EC, 22, 176, 300                         | personnel licences, 162                  |
| Greece, 300                              | right of establishment, 304              |
| Conditions of contract, 293, 295, 316    | take-overs, 28                           |
| Conferences on air law, 20, 22, 25, 245  | , , , , , , , , , , , , , , , , , , ,    |
| Consumers, 261                           | taxes, 59                                |
|  | third package, 71, 297                   |
| Construction of aircraft, 263, 278       | ECAC, 253                                |
| Contracts, 78, 269                       | Warsaw system, 149                       |
| See also Choice of law                   | Economic problems                        |
| applicable law, 78                       | financing, 43, 257                       |
| disputes, 83                             | taxes, 43                                |
| judgments, 83                            | Ekranoplanes, 286 ff                     |
| Conventions                              | Emergency landing                        |
| Chicago 1944, 185, 246                   | liability, 310                           |
| Geneva 1948, 43, 65, 81, 264             | Emotional distress, 271, 318             |
| Guatemala 1971, 148                      | Engines                                  |
| Rome 1933, 4, 145                        | leasing, 46, 64, 112                     |
| Warsaw 1929, 147, 268                    | Environment                              |
| Criminal law                             | and aviation, 23, 275                    |
| drugs, 51, 144, 168, 276                 | EC, 23                                   |

| Eurocontrol, 2 ff, 263, 266             | IATA, 186                    |
|---|------------------------------|
| en route charges, 2, 51, 137, 142       | R.P. 1601, 292               |
| UK, 3                                   | Res. 507b, 23, 293           |
| Evidence, 274                           | Warsaw system, 149           |
| Explosives, 276                         | ICAO, 125, 253               |
| ICAO Convention, 276                    | FANS, 17, 125, 224           |
|   | Legal Committee, 224         |
| FAA, 254                                | IFALPA, 166, 253             |
| Facilitation, 268                       | ILA                          |
| Factortame, 69, 305                     | air carrier liability, 150   |
| FANS, 17, 125, 224                      | Incidents                    |
| Fares, 133                              | investigation, 166, 226      |
| EC, 163, 222                            | reports, 167                 |
| Financing problems, 43 ff               | Insolvency, 258              |
| Flight safety, 267                      | Insurance, 206, 227, 276     |
| Forums, 32, 173, 274, 316, 321          | hijacking, 133               |
| France, 247                             | Israel, 180                  |
| aircraft financing, 87                  | Kuwait 1990, 206             |
| leasing, 87                             | products liability, 211      |
| Freedoms of the air, 74                 | IISL, 311                    |
| fifth, 187, 189                         | Israel                       |
| seventh, 76                             | aviation insurance, 180      |
| Freight, See Cargo                      | aviation law, 178            |
| FSIA, 34, 174, 274                      | ITU                          |
| FTCA, 313                               | WARC '92, 17                 |
| •                                       | IUAI, 254                    |
| GATS, 193                               |                              |
| GATT, 193                               | JAA, 130, 160, 254           |
| Geneva Convention 1948, 43, 65, 81, 264 |                              |
| Germany, 246                            | Kuwait, 206, 252             |
| aviation law, 127                       | 1990 insurance, 206          |
| leasing, 92                             |                              |
| slots, 9                                | Labour conditions, 264       |
| Great Britain, 249                      | strikes, 264                 |
| airport liens, 137                      | Leasing, 43ff, 273           |
| aviation policy, 322                    | accident investigation, 226  |
| drugs, 144                              | EC rules, 220                |
| Eurocontrol, 3                          | engines, 46, 64              |
| Greece                                  | sale-leaseback, 48           |
| aviation law, 297                       | third party rights, 51       |
| licences, 307                           | Liability, 270               |
| air carrier nationality, 299            | See also Warsaw Convention   |
| Guatemala City Protocol 1971, 148       | delay, 170                   |
| •                                       | domestic carriage, 272       |
| Handicapped passengers, 319             | ECAC, 149                    |
| Handling, 233, 272                      | emergency landings, 310      |
| Hijacking, 276                          | emotional distress, 271, 318 |
| China, 133                              | hijacking, 37, 133           |
| insurance, 133                          | ILA, 150                     |
| liability, 37, 133                      | limitations, 147             |
| Hovercraft, 286, 288                    | negligence, 30, 172, 319     |
| 110.0101411, 200, 200                   | New Zealand, 26              |
|   | 11011 Louidiu, 20            |

| psychic injuries, 271, 318                   | Passengers                                   |
|--|--|
| punitive damages, 26, 31, 171, 270, 317, 318 | duties, 269                                  |
| recklessness, 237                            | handicapped –, 319                           |
| wilful misconduct, 270, 313, 317             | personnel as –, 319                          |
| Liability for                                | Personnel                                    |
| ATC, 312, 315                                | EC licences, 162                             |
| baggage, 172, 313                            | Pilots, See Aircraft commander               |
| cargo, 271, 321                              | Precautionary arrest of aircraft, 2ff, 263   |
| dangerous goods, 272                         | Rome Convention 1933, 4, 145                 |
| delay, 170, 272, 315, 320                    | Products liability, 33, 37                   |
| freight, 271, 321                            | insurance, 211                               |
| handicapped passengers, 319                  | military aircraft, 37, 38, 278               |
| overbooking, 30, 31, 273                     | Psychic injuries, 271, 318                   |
| passengers, 271, 314                         | Punitive damages, 26, 31, 171, 270, 317, 318 |
| personnel, 320                               | 1 umave damages, 20, 31, 171, 270, 317, 310  |
| trucking, 291                                | Recklessness, 237                            |
|  | Registration of aircraft                     |
| Liability of                                 |  |
| air carrier, 23, 30, 291, 321                | USA, 153                                     |
| aircraft manufacturer, 263, 278              | Reparations, 137                             |
| airport operator, 231                        | Rights in aircraft, 264                      |
| aviation personnel, 265                      | See also Leasing, Mortgages, Geneva Con-     |
| travel agent, 31                             | vention 1948                                 |
| Liens, 137                                   | Rome Convention 1933, 4, 145                 |
| 6.1  | precautionary arrest, 2ff, 263               |
| Maintenance of aircraft, 137, 264            | 0.1.11110                                    |
| service bulletins, 235                       | Sale-leaseback, 48                           |
| Manuals of air law, 245                      | Slots, 9, 268                                |
| Mergers, 257                                 | EC regulation, 9, 272                        |
| EC, 28                                       | Service bulletins, 235                       |
| Military aviation                            | Sovereignty in airspace, 254                 |
| liability, 278                               | Space law                                    |
| product liability, 37, 38, 278               | manuals, 39, 175                             |
| Mortgages, 43ff, 63                          | Spaceplane, 20, 262                          |
|  | Spain, 249                                   |
| National authorities                         | leasing, 104                                 |
| FAA, 254                                     | State responsibility, 255, 313               |
| JAA, 130, 160, 254                           | Successive transports, 273                   |
| Negligence, 30, 172, 319                     | Surface transportation, 291ff                |
| The Netherlands, 248                         | Sweden                                       |
| detention of aircraft, 141                   | licences, 128                                |
| leasing, 53, 78, 111                         |  |
| notaries, 118                                | Tariffs, 133                                 |
| security rights, 111                         | EC, 163, 222                                 |
| taxes, 53ff                                  | Telecommunications, 39, 224                  |
| New Zealand                                  | WARC '92, 117                                |
| accident investigation, 26                   | Terrorism, 277                               |
| airline liability, 26                        | explosives, 277                              |
| aviation policy, 25                          | Tickets, 269                                 |
| Noise, 275                                   | CRS, 73, 269                                 |
| , = 10                                       | Tour operators, 31                           |
| Overbooking, 30, 31, 273                     | Traffic rights, 255                          |
|  | See also Freedoms of the air                 |
|  |  |

| bilaterals, 255               | laws of -, 278                               |
|-------------------------------|--|
| GATS, 193                     | WARC '92, 17                                 |
| GATT, 193                     | Warsaw Convention 1929, 147, 268             |
| Trucking, 291ff               | Art. 1, 291                                  |
|                               | Art. 4, 313                                  |
| United Kingdom, 249           | Art. 8, 314                                  |
| airport liens, 137            | Art. 11, 293                                 |
| aviation policy, 322          | Art. 17, 232, 314, 318, 320                  |
| drugs, 144                    | Art. 18, 232, 291ff, 315, 321                |
| Eurocontrol, 3                | Art. 19, 170, 315                            |
| United States of America, 250 | Art. 20, 232, 315                            |
| and EC, 190ff                 | Art. 22, 232, 315                            |
| aviation policy, 322          | Art. 24, 170                                 |
| CRS, 73                       | Art. 25, 232, 237                            |
| drugs, 145                    | Art. 26, 170                                 |
| FSIA, 34, 174, 274            | Art. 28, 316                                 |
| FTCA, 313                     | Art. 29, 171                                 |
| registration of aircraft, 153 | cause of action, 170                         |
| Use of aircraft, See Leasing  | punitive damages, 26, 31, 171, 270, 317, 318 |
|                               | recklessness, 237                            |
| Veritas, Bureau, 263          | wilful misconduct, 270, 313, 317             |
|                               | Wilful misconduct, 270, 313, 317             |
| War                           |  |
| civil aircraft, 278           |  |
|                               |  |

# Table of cases

| Aboujdid v. Singapore Airlines                         | 37       |
|--|----------|
| Air crash disaster near Cerritos, Cal.                 | 313      |
| Air crash disaster near Stapleton Airport              | 31, 35   |
| Air crash disaster near Warsaw 1987                    | 34, 316  |
| Alyasin v. Lufthansa                                   | 170      |
| Barkanic v. China                                      | 174      |
| BRI Coverage v. Air Canada                             | 33       |
| Brosnahan v. Western Air Lines                         | 30       |
| Cameroon Airlines v. TASS                              | 320      |
| Can Arc Helicopters v. Textron                         | 235      |
| Chukwuma v. Air France                                 | 314      |
| Cogar v. Central Mountain Air Services                 | 229      |
| Commodities Recovery Corp. v. Emery Worldwide          | 316      |
| Coronation Insurance Company v. Taku Air Transport     | 227      |
| Costoplos v. Piedmont                                  | 172      |
| Diaz v. Aerovias Nacionales de Colombia                | 32       |
| Dimsa v. Línea Aérea del Cobre                         | 314      |
| Eastern Airlines v. Floyd                              | 318      |
| Elsis v. TWA   | 31       |
| Filus v. LOT   | 34       |
| Gastaldi Int. v. Aeroporti di Roma                     | 321      |
| Geller v. Delta Air Lines                              | 34       |
| Ginsberg v. Robinson Helicopters                       | 33       |
| Goldman v. Thai Airways Int.                           | 237      |
| Gurtner and others v. Beaton and others                | 237      |
| Harduvel v. General Dynamics Corp.                     | 38       |
| Hartford Insurance v. Dominicana                       | 171      |
| Hoban v. Grumman Corp.                                 | 37       |
| Imarisio v. TWA and Cook                               | 30       |
| In re Disaster at Lockerbie                            | 317      |
| In re Domestic Air Transportation Antitrust Litigation | 312      |
| In re Korean Air Lines disaster                        | 317, 318 |
| Irsh Aerospace v. Eurocontrol and CAA                  | 6        |
| Kabo v. United Air Lines                               | 320, 321 |
| Karuba v. Delta Air Lines                              | 319      |
| Kurz v. Pan Am   | 172      |
| Kuwait Airways v. Ogden Allied Aviation Services       | 35       |
| McPherson v. Qantas                                    | 315      |
| Meyers v. Boeing                                       | 173      |
| Morgan v. United Air Lines                             | 318      |

| NBBS v. Akel<br>Nolan v. Boeing  |   |  | 164<br>33, 173, 174      |
|--|---|--|--------------------------|
| O'Toole v. TWA   |   |  | 172                      |
| Padilla v. Olympic Airwa<br>Palmer v. Borg-Warner C<br>Pan Am v. C.F.Airfreight                            | Corp.   |  | 314<br>173<br>170        |
| R. v. CAA, ex parte Eme  | ry Freight Corp.  |  | 5                        |
| Seidman v. American Air<br>Semrod v. Mexicana Airl<br>S.S.Pharmaceuticals v. Q<br>Sulewski v. Federal Expr | ines<br>antas Airways                                   |  | 319<br>31<br>237<br>320  |
| Velasquez v. Avianca   | Velasquez v. Avianca                                    |  |                          |
| Wells v. American Airlines<br>West v. Northwest<br>Wyler v. Korean Air Lines                               |   |  | 315<br>171<br>312, 316   |
| Germany  |   |  |                          |
| Amtsgericht  | Düsseldorf  | 9 May 1990   | 315                      |
| Landgericht  | Frankfurt a/M<br>Frankfurt a/M<br>Frankfurt a/M<br>Köln | 21 August 1990<br>14 October 1990<br>12 March 1991<br>19 December 1990 | 313<br>315<br>315<br>315 |
| Landesgericht  | Stuttgart   | 26 May 1986  | 294                      |
| Oberlandesgericht  | Düsseldorf<br>Nürnberg                                  | 13 December 1990<br>28 October 1991                                    | 315<br>310               |