Flight Delays and Cancellation in International Carriage

Mohamed Hussain Amin Almulla

Attila Sipos

1. Introduction

The Warsaw Convention on the Unification of Certain Rules Relating to International Carriage by Air (1929)[1] was the most important treaty regulating the relations of private international air law. After 70 years the Warsaw Convention was replaced by a new international treaty, the Montreal Convention (1999).[2] The Montreal Convention is another international treaty of private law drafted under the guidance of the International Civil Aviation Organization (ICAO). As an outstanding result of work and deliberation of 33 years, the ultimate and all-encompassing destination of the process was reached, to wit, the Montreal Convention.[3] Currently, this private international air law treaty is unifying certain rules regarding air carrier liability. In the Montreal Convention the passenger from the business point of view has become the most important "person".[4] The Warsaw Convention (1929) guaranteed less protection for the passenger (*see*, provided only limited liability for accident) and it was in favor of the air carrier, which has changed to date.[5] The passenger has become more important owing to the emphasis placed on passengers' rights in the industry working under rigorous rules. As a matter of fact, air transport has become mass transportation in everyday life, therefore, passengers need to be protected much more on the one hand on an international level, and on the other hand, on the national level. The passengers choose air transport very frequently because it is not only safest mode of transportation, but it is the fastest one as well. Therefore, the flight time of the journey is a very important factor. The main real product of air carriers' services is the "time schedule". The passenger must know the exact time durations: how long does it take to travel from Point "A" to Point "B"? The duration of the passenger trip informs the passenger about the choice of flights, air carriers and airports, which positively correlates with customer satisfaction and brand loyalty, generating profits for the air carrier.[6] The Montreal Convention (1999) governs air carrier liability for passengers, baggage and cargo in international carriage in the cases of: (1) accident (death or bodily injury), or (2) delay to passengers; (3) delay, loss of or damage to baggage; and (4) delay, loss of or damage

[1] The Warsaw Convention (1929) is still in force (www.mcgill.ca/iasl/files/iasl/warsaw1929.pdf).
[2] ICAO Doc 9740; Convention for the Unification of Certain Rules for the International Carriage by Air. Montreal, 28 May 1999.
[3] MILDE, Michael: From Warsaw 1929 to Montreal 1999. *IASL/McGill Symposium* (UAE, Dubai, 13-14 December 2003).; ICAO Special Meeting on Limits for Passengers under the Warsaw Convention and The Hague Protocol, Montreal, 1-15 February 1966.
[4] Montreal Convention (1999), the personal scope of the Convention, Article 1.
[5] Sipos, Attila: The Modernisation of Air Carrier Liability. Is the New Montreal Convention the Humble Successor to the Warsaw System? *ELTE Annales*, Budapest, 2019. pp. 101-119.
[6] Lance Sherry, Danyi Wang, Ning Xu: Comparison of Flight Delays and Passenger Trip Delays in the National Airspace System (NAS). Center of Air Transportation and Systems Research Department of Systems Engineering and Operations Research, George Mason University. 2007. p. 1.

to cargo.
This article shows the legal challenges and regulations of passengers' delays and cancellations in the aviation industry. It focuses on the regulatory aspects and practical issues at the same time.

2. Delays

Air carrier flight delays, like other similar situations involving delay entail waiting for the service, thus, they may negatively affect the passengers and the whole industry in many ways. Delays may imply a stressful factor. It may easily provoke passengers' anger, uncertainty, and dissatisfaction with the service provided, which can result in financial and economic consequences to passengers and air carriers.[7] The nature of delays is well-known for passengers, but they entail tremendous burden on the air carriers, the airports and air traffic management. The main effect of delay on the air carriers is definitely the financial and legal burden, but delays also affect air carrier marketing strategies, which rely on customers' loyalty by supporting frequent-flyer programs (FFPs). Delays also determine the consumer's choice, which is related to the reliability and punctuality of the air carrier. We can identify genuine relationships between levels of delays and ticket fares, furthermore, delay may also have impact on the size of the fleets, capacities (both of the air carriers and the airspaces), flight frequencies and complaints about air carrier services. "The estimation of flight delays can improve the tactical and operational decisions of airports and air carriers, managers and notified passengers so that they can rearrange their plans".[8] Especially, if the flight is delayed for long hours, time is precious for the passengers because each passenger has their own important goals for travelling. For example, if the passenger is travelling on vacation and the flight has been delayed for long hours, they will lose the enjoyment both of the arrival and of the stay (accommodation), since the hotel may not refund the booking fee for the missed night.

The Warsaw Convention (1929) as well as the Montreal Convention (1999) explicitly address delay under Article 19. As the article reads in the Warsaw Convention: "The carrier is liable for damage occasioned by delay in the transportation by air of passengers, baggage, or cargo". While in the Montreal Convention we read: "The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo". Delay is not defined in either of the Conventions, its interpretation devolves on national law, but it can normally be construed as late arrival at destination.

[7] John A. Bishop, Nicholas G. Rupp and Buhong Zheng: Flight Delays and Passenger Preferences: An Axiomatic Approach. *Southern Economic Journal*, Vol. 77, No. 3, January 2011. p. 543.
[8] Shubham Jha: Flight Delay Analysis. Project Research Paper. 2014. p. 2.

However, in order to determine what late means, one cannot simply turn to scheduled timetables, as they are not strictly binding. It has been proposed that "delay constitutes substantially exceeding the time that would normally be required for a comparable transport. This seems to be in accordance with court cases where delay has been interpreted to mean (abnormal delay)".[9]

2.1 Reasons for delay

The reasons for delay can be various. They include, for example, mechanical problems, weather conditions, ground delays, air navigation service or airport capacity problems, runway queues and capacity constraints, all of which can cause a flight delay and also cancellation.[10] Most flight delays are short ones (arising from slot allocation, ground handling activities, crew or passenger delays, etc.). The time-span of these delays is less than two hours. In this article the focus is on the legal nature of delays and both short and long delays will be analyzed. However, for the purposes of the analysis, besides the sources of private international air law, national civil legislations must also be taken into account, moreover, the European Union's Regulation no. 261/2004[11] as well, which does not apply to passengers on flights delayed for less than two hours. In the latter case, "delay" is designed to mean long delay as circumscribed under Regulation no. 261/2004.[12]

One of the most common causes of flight delays, and also of cancellations is bad weather. When there are thunderstorms, high winds, or heavy snowfall, it can be unsafe for aircraft to take-off or land. In these cases, air carriers will often delay or cancel flights to ensure the safety of their passengers and flight crew. Unfortunately, bad weather is sometimes unpredictable and can cause significant disruptions to travel plans.[13] It is obvious if flights arrived more than 15 minutes after their scheduled time, it would result in millions of dollars in costs to the traveling public. Additionally, delays increase air carrier costs, as they lower aircraft utilization rates and bring about the adjustment of schedules by air carriers, leading to higher crew costs.[14]

---

[9] Dempsey, Stephen P. and Johansson, Svante O.: Montreal v. Brussels: The Conflict of Laws on the Issue of Delay in International Air Carriage. *Air & Space Law Journal*, Vol. 35 (39), 2010. p. 211.

[10] Alice Sternberg, Jorge Soares, Diego Carvalho and Eduardo Ogasawara: A Review on Flight Delay Prediction. *Cornell University*. 4 April 2021. p. 3.

[11] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 - Commission Statement. *OJ L 46, 17/2/2004. p. 1-8.*

[12] Stefan Kouris: Study on the Current Level of Protection of Air Passenger Rights in the EU. *EU Publications*, 2020. p. 15.

[13] Australian Consumer Law Review – Response to Issues Paper and Submission. *The Law Society of Western Australia*. 27 May 2016. p. 3.

[14] Rodrigo Britto, Martin Dresner and Augusto Voltes: The Impact of Flight Delays on Passenger Demand and Societal Welfare. *Transportation Research Part E: Logistics and Transportation Review*. Volume 48, Issue 2, March 2012. p. 460.

Due to the nature of aviation, as the aircraft flies over different jurisdictions and carries out cross-border commercial activities, it means the passengers can reach every point of the world by aircraft (sometimes by helicopters, but rotor-winged helicopters are also aircraft used in commercial civil aviation). The passengers have high demands as to reaching their place of destination in time without any safety, security or contractual concerns. The passengers follow their itineraries while air carriers have to plan different kinds of schedules such as aircraft rotation, maintenance issues, working plans for pilots and flight attendants, etc. These challenges are repeated several times throughout the day for each flight in the system. The cockpit crew (pilots) and cabin crew (flight attendants), furthermore, the aircraft may have different schedules due to legal rests, duties, and maintenance plans for airplanes. So, any disruption in the system can impact the subsequent flights of the same air carriers. Moreover, disturbances may cause congestion in the airspace or at other airports, creating queues and delaying some flights of other carriers. This way, the prediction of flight delays is an essential task both for air carriers and airports, furthermore, for Air Navigation Service Providers (ANSPs) and network managers like those employed for instance by Eurocontrol.[15]

2.2 Root delay and delay propagation

Flight delays have many reasons as mentioned above, but there are many other factors which are not well-known for the passenger, but all the more important for the industry. The nature or factor of delay must be analyzed from legal, economic and operational points of view. Many studies focus on the prediction and estimation of delay duration. Some approaches apply the 'probabilistic method' and 'innovation distribution', whereas others establish conditions for the occurrence of a *root delay*, such as passenger demand, fares, flight frequency or aircraft size or both of the latter ones.[16]

Root delay is a primary delay which causes a reaction in a system. The root delay can primarily be due to departure delay (most reasonably generated by the air carrier, the airport and air navigation service activities), while 'non-rotational' delay arises due to awaiting the flight crew, to technical equipage, loading, or passengers, whereas, 'inbound' delay, which occurs when the incoming aircraft that is scheduled to operate a flight arrives late, causing a delay for the outbound flight, furthermore, it may occur either due to maintenance or crew issues, or to heavy traffic). All root delays dramatically impair the performance of the transportation network.

---

[15] *Supra* note 16, at p. 4.

[16] B. Zou and M. Hansen: Flight Delay Impact on Airfare and Flight Frequency: A Comprehensive Assessment. *Transportation Research Part E Logistics and Transportation Review*, Elsevier BV. 69 (0):54-74, September 2014. p. 5.

In the context of *delay propagation*, we need to understand how a delay spreads through an air carrier and an airport based on an initial delay in the transportation system. A typical situation occurs when a delay spreads to other flights of an air carrier as a chain reaction. In such cases, we can measure how resilient carriers are in recovering from delay propagation. "Also, a delay may continue to propagate due to the scheduling of critical resources or retentions at other airports".[17]

It is important to understand that each flight has its own schedule and "slot"[18] to follow for take-off and landing time, so when a delay happens to a flight it needs to reschedule both for departure and arrival airports. "Such a situation may increase the number of flights at some periods, generating capacity problems and queues".[19] "When the scheduled time for take-off or landing is not fulfilled, flights need new slots that might be unavailable". [20] In such circumstances the root delay of flights may have serious effects both on departure and arrival airports. Such situations may generate capacity constraints, and eventually, may increase the number of flights. In the following let us see how delay propagates through the network of the transportation system.

As an example for delay, we can mention a flight which was scheduled to depart at 1:00 p.m. in the afternoon from Sharjah Airport (SHJ) to Kuwait International Airport (KWI), but all flights were delayed due to heavy fog in the morning time. After the fog had disappeared, the airport resumed the flights, but the second flight at 4:00 p.m. and the third flight at 9:00 p.m. of the same air carrier departed to Kuwait on time, and the first flight, which was meant to depart at 1:00 p.m., was delayed for 12 hours and departed at 1:00 a.m. How could this situation occur? Air carriers have to take many important elements into consideration to operate smoothly, but mainly, they have to calculate with airport capacity, the aircraft and the staff on the ground and during flight operation. If one of the elements is missing, the flights cannot operate punctually according to the time schedule, furthermore, air carriers (and also the airports and even the airspaces) have limited capacity at specific points of time. Each aircraft is used more than once a day and there is a schedule for the operation of the flights, however, if any accidents or unusual circumstances occur, the schedule needs to be changed. As

[17] M. Hansen: Micro-level Analysis of Airport Delay Externalities Using Deterministic Queuing Models: A Case Study. *Journal of Air Transport Management*, 2002. pp. 73-87.
[18] Airport slot means the scheduled time of arrival or departure available or allocated to an aircraft movement on a specific date at an airport coordinated under the terms of the Council Regulation. (EEC) No. 95/93 of 18 January 1993 on common rules for the allocation of slots at Community airports. OJ L 14, 01.22.1993, Article 2 a).
[19] Alice Sternberg, Jorge Soares, Diego Carvalho and Eduardo Ogasawara: *A Review on Flight Delay Prediction.* Cornell University, 4 April 2021. p. 4.
[19] Shubham Jha: Flight delay analysis. Project Research Paper, 2014. p. 7.
[20] *Id.,* p. 4.
[20] *Id*., p. 7.

a matter of course, it requires professional skills to manage these situations. The reallocation of the flights is effected in order to grant new approvals for departures to the specific places of destination. In addition to these factors, it must also be taken into account that the flight crew has limited working hours (regulated rigorously), thus, the cockpit and the cabin crew cannot be in a standstill (or on standby) for longer periods.

Finally, under certain circumstances, delays can lead to cancellations, forcing air carriers and passengers to reschedule their itineraries. All delays and cancellations cause damage to the passenger. If the air carrier is liable for delay or cancellation, the air carrier – after all information and data have been taken into account – has to compensate the passenger under all circumstances, but limitedly.

2.3 Exoneration and limitation of liability in the case of delay

The Warsaw Convention stipulates: "The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures".[21] Article 19 of the Montreal Convention also provides that "the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures". As we can see, the Warsaw and the Montreal Conventions both protect the air carriers by the limitation of their liability in the case of delay but to different amounts. In the Warsaw Convention there was no regulation for the delay of passengers, however, for the delay of baggage and cargo it stipulated a compensation of 250 Gold Francs. Under the Montreal Convention, passengers can recover actual damages up to 5,346[22] Special Drawing Rights (hereinafter: SDR)[23] for the delay of persons and 1,131 SDRs for delayed baggage, or more, if it is proven that the employees of the carrier engaged in willful misconduct. Upon the delay of cargo,

[21] Warsay Convention (1929), Article 20 (1).

[22] The amount of 100,000 SDR per passenger determined in 1999 and all other amounts in Articles 21–23 of the Convention, for the purpose of the offset of the inflation, have been raised by the States Parties pursuant to the rule of Article 24 of the Montreal Convention. The upper limit in the case of passengers became 113,100 SDR in 2009, then 128,821 SDR in 2019. The limit, revised at five-year intervals did not change in 2014, then, in 2019 it was amended again and the raised amounts have been applied since 28 December 2019. *Revised Limits of Liability Under the Montreal Convention of 1999.* (www.icao.int/secretariat/legal/Pages/2019). Accessed 01.09.2023.

[23] The amounts manifest in SDR pertain to a unit determined by the International Monetary Fund. The determination of the SDR is effected so that the major international currencies used in international transactions are united in a currency basket. The SDR (the currency code of which according to the ISO-4217 Standard is XDR) derives its value from a basket of five currencies: the Euro (EUR), the Japanese Yen (JPY), the United States Dollar (USD), the British Pound Sterling (GBP) and the Chinese Yuan Renminbi (CNY). The weight of the given currency manifest in SDR is determined by the weight the given national currency carries in international transactions. IMF Review of the Method of Valuation of the SDR. Executive Summary, July 2015. pp. 1-2.

"actual damages up to 22 SDRs per kilogram can be recovered, but not anymore, as the ceiling for cargo is unbreakable".[24] Which means that in a normal case, if the plaintiff breaks through the limited liability of the air carrier related to the delay of and damage to baggage (as we mentioned above, in the case of cargo this limit is unbreakable), the court obligates the damaging party to indemnify the total damage. Limited liability may be broken by the plaintiff if they prove that the "damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage, or recklessly and with knowledge that damage would probably result. So far as the servant or agent of the air carrier commits such an act or omission, the air carrier is fully liable provided that it is also proved that such servant or agent was acting within the scope of its employment".[25]

The real difference between the two Conventions regarding delays is the amount of compensation. The amendments of the Montreal Convention (1999) regarding the liability sums, to wit, the higher amounts of limited liability and compensation imply great steps for the passengers, because they were designed to settle the disputes between the passengers and the air carriers in the case of damage caused by delay by granting the passenger higher compensation, which also resulted in a more reliable and trustworthy environment for the growth of the industry.

3. Cancellation

The air carrier can cancel flights via its decision-making process. There are also a huge number of factors and a great variety of reasons influencing its decisions on cancellation. First of all, (1) cancellations, which are within the control of the air carrier (e.g., airline-specific cancellations) such as crew shortages or technical faults of the equipment; (2) commercial cancellations, where an air carrier decides to cancel a flight as it is not commercially viable to operate it due to, for example, the low number of bookings (these are also airline-specific cancellations); and (3) cancellations due to extraordinary circumstances that are not within the airline's control such as adverse weather conditions, strikes and unforeseeable circumstances (vis-maior). In the latter occasion, it is impossible to take appropriate measures because one is powerless vis-a-vis the superior power (*vis maior*) such as wars and emergencies, natural disasters (volcanic ashes, earthquakes, tornados), catastrophes, and even strikes.[26] It is worth emphasizing that the Montreal Convention does not mention the legal institution of *vis*

[24] Dempsey Stephen P. and Johansson Svante O.: Montreal v. Brussels: The Conflict of Laws on the Issue of Delay in International Air Carriage. *Air & Space Law Journal*, Vol. 35 (3), 2010. p. 211.
[25] Montreal Convention (1999), Article 22 (5).
[26] *Tismanariu v. Societe Air France,* QCCQ 2847, 2014.; Force Majeure Trumps Delay Claim in Québec Aviation Case. *Transportation Notes,* 10. 5, 2014. p. 2.

maior, hence, it entrusts the judgement of the case to national courts.

Regulation (EC) no. 261/2004 makes a distinction between airline-specific and non-airline-specific cancellations as this has implications for the legal title of passenger compensation. According to the scope of Regulation (EC) no. 261/2004, there are short-term 'operational cancellations' (which is the definition of cancellations often applied by airports and ANSPs), as well as long-term cancellations including those within two weeks before the scheduled departure time (for which passengers are entitled to compensation) and those over two weeks before the scheduled departure time (for which passengers are not entitled to compensation, but have other entitlements under the Regulation). The general conditions of the EU Regulation no. 261/2004 set out that as long as the passenger possesses a valid ticket and has confirmed reservation for a flight departing from an airport in the EU and has checked in timely, he or she is covered by Regulation (EC) no. 261/2004 for denied boarding, cancellation and flights with long delays.

3.1 Reasons for flight cancellations

Air carriers can cancel flights due to circumstances such as weather conditions and maintenance problems, but it also happens due to a lack of seat occupancy and sometimes for reason of cost saving.[27] The reasons for flight cancellation can be divided into two different aspects: (1) flight cancellation within the control of the air carrier due to crew shortages, technical faults of the equipment, or to commercial decisions because of, for example, the low number of bookings; (2) flight cancellations external to the control of the air carrier, for example; adverse weather conditions and extraordinary circumstances. Also, there are reasons for flight cancellations when it cannot be established immediately whether they are imputable to the air carrier or it requires investigation to determine which party made the cancellation.

3.1.1 Cancellation features

Flight cancellations are low probability events and are inherently difficult to predict. However, when flight cancellations do occur, the impacts are significant. The passengers on the cancelled flight must be rebooked on other flights, often hours later. On the other hand, cancelled flights can reduce the delay of other delayed flights. Moreover, any delay caused by the cancelled flight will also be avoided. All of these

[27] J. Xiong and M. Hansen: Modelling Airline Flight Cancellation Decisions. *Transportation Research Part E Logistics and Transportation Review*, Elsevier BV, 56 (Supplement C): 64-80, September 2013. pp. 64-80.

effects must be considered when air carriers decide to cancel flights, thus, their relative importance depends on many factors.[28]

Based on the observable data and characteristics, we can predict the probability of cancellation for each flight. However, there are flights that have a higher chance for cancellation because of, for example, their low load, their narrow bodies, in bad weather short-haul flights may also be cancelled. In other cases, there is a lower chance for cancellation, in the case of a wide-bodied aircraft, high load and on days with good weather in the early morning hours.[29]

In addition, the air carrier in the case of flight cancellation must provide meals and communications for each passenger. Where the passenger will depart the following day, overnight hotel accommodation and transportation needs to be offered.[30] Moreover, the air carrier is exempted from liability, therefore, it will not be liable to compensate the passengers if it can prove that the cancellation happened because of extraordinary circumstances (e.g., vis maior) and the air carrier had taken all reasonable measures, nevertheless, the air carrier could not avoid the cancellation.[31]

4. The distinction between delay and cancellation

Flight delays and flight cancellations are two distinct scenarios that can disrupt travel plans. The flight is considered to be cancelled and not delayed if a new different flight number was given to the passenger which means he was carried on a different flight from what he was meant to be carried on earlier, furthermore, the flight is considered to be cancelled and not delayed if the passenger was carried after 48 hours of the scheduled time of departure, but if the delay was less than 20 hours, it will be considered to be a delay and not cancelled. In the EU practice "the flight which is delayed for more than 20 hours must be regarded as cancelled, not just delayed".[32]

In practice if we make a distinction between a delayed and a cancelled the flight, we should simply look at the following facts: if the flight reached its destination, it is considered to be delayed and not cancelled with regard to the number of hours of the delay. If the flight number was not changed, the contract of transportation was fulfilled and the flight carried the passenger, thus, this is considered to be a delay even if the

[28] Michael Thomas Seelhorst: Flight Cancellation Behaviour and Aviation System Performance. Dissertation, University of California, Berkeley. 2014. p. 4.
[29] *Id.*, Part 2.7, p. 18.
[30] Dempsey Stephen P. and Johansson Svante O.: Montreal v. Brussels: The Conflict of Laws on the Issue of Delay in International Air Carriage. *Air & Space Law Journal*, Vol. 35 (3), 2010. p. 217.
[31] Mendes de Leon, Pablo: *Introduction to Air Law*. Wolters Kluwer, 10th ed., 2017. p. 263.
[32] Supra note 33, at p. 270.

carrier carried the passenger on a different flight. If the flight was cancelled and the contract of transportation was not fulfilled, this is considered to be a cancellation. In some States, for example, in the Europe Union, the Member States stipulate that delay depends on the length and duration of the flight,[33] whereas, the Montreal Convention regulates delay without the consideration of the circumstances of the passenger and his or her emotional or financial damage. For example, the damage caused by delay is different to the passenger who's travelling back home from the damage to the passenger who was travelling to work or to do business which could have yielded a huge amount of money, but because of the delay, the passenger missed the time of the meeting.

4.1 The process for claiming compensation for the delay or cancellation of the flight

Every air carrier has a customer care office or a department for complaints. It is visible as its whereabouts has to be publicized by email or displayed on the website. The passengers can send the complaints to the customer care office, then the customer care office sends the complaint to the department concerned to inquire about the reasons for the complaint or the conflict and as per law the air carrier shall compensate the customer. The management handling the claim changes from one company to the other and the procedures vary as well. For example, the European Union has its own regulations so we can be aware of the applicable law. The customer has to support their claim, they have to prove with a document that the damage occurred, otherwise their claim will be rejected.

"In the case of delay, the complaint must be made within 21 calendar days at the latest from the date on which the baggage or cargo have been placed at his or her disposal" [Article 31 (2)]. Furthermore, it must be taken into account that under specific conditions or circumstances it is impossible to exempt the air carrier from providing compensation. The Montreal Convention, which is incorporated in the law of the United Arab Emirates,[34] presumes the fault of the air carrier in the case of delay and cancellation unless the carrier proves that it took all the necessary measures to avoid the delay or the cancellation, nevertheless, it could not avoid it due to extraordinary

[33] If a passenger's flight has been delayed for two hours or more in the case of flights of 1,500 kilometres or less or for three hours or more in the case of all intra-community flights of more than 1,500 kilometres, for all other flights between 1,500 and 3,500 kilometres; or for four hours or more in the case of all flights not falling under the above-mentioned two categories, he/she is entitled to the following care: meals and refreshment; and means of communication; and to the following other entitlements: hotel accommodation, transport between the airport and the hotel when the expected departure time is at least 24 hours after the original departure time of the flight; and reimbursement of the ticket within seven days when the delay is at least 5 hours. *Supra* note 13, at Article 6.

[34] The United Arab Emirates ratified the Montreal Convention (1999) on 7 July 2000. (ww.icao.int/secretariat/legal/list%20of%20parties/mtl99_en.pdf).

circumstances such as heavy fog or rain, hurricanes, technical failures or maintenance at the departing airport. In such cases the air carrier will be exonerated from the liability.

"Every complaint must be made in writing and given or dispatched to the air carrier within the times aforesaid".[٣٥] The omission of the deadline entails forfeiture. The delayed initiation of action may not be exempted, with the exception of the case when the air carrier for the purpose of the evasion of its obligation of indemnification commits fraud. In case during the carriage damage is caused to baggage or cargo, furthermore, if the flight is delayed, the clients may make a claim for damages or make a complaint to the air carrier for the purpose of the examination of the case. In the case of damage, the person entitled to delivery must complain to the air carrier forthwith after the discovery of the damage

- in the case of checked baggage within 7 calendar days from the date of receipt;
- in the case of cargo within 14 calendar days from the date of receipt at the latest.

5. Conclusion

Eventually, the delay or the cancellation of flights are the most frequent failures in the civil aviation system, they affect the passengers negatively and may cause dissatisfaction in the passengers, which may lead to the loss of their loyalty. No one can predict exactly the next decades ahead of us, but we can anticipate quite well a rise in the number of passengers and flights in the future. If the international airports and the air traffic management can manage the increased number of flights (from a technical, human resources and management viewpoint), this will reduce the number of delays and cancellations. From regulatory aspects, the Montreal Convention unify the certain rules, provide same treatments for those passengers who suffered damage (from delay) during their trip worldwide.[36] The implementation of a paradigm shift is necessary since numerous passengers are not aware of their rights and obligations. Therefore, it is crucially important that air carriers via more communication and information-sharing inform passengers preliminarily in a detailed manner about their rights guaranteed under the Montreal Convention and the General Conditions of Carriage. Furthermore, national laws and the judicial systems should be granted greater role and judges, officials, airline staff and costumer services employees should familiarize themselves with international regulations and practice.

[35] Montreal Convention (1999), Article 31 (2).

[36] 139 States have been ratified till today the Montreal Convention.
<www.icao.int/secretariat/legal/list%20of%20parties/mtl99_en.pdf>. Accessed 27 September 2023.