

Convention for the Unification of Certain
Rules for International Carriage by Air,
Done at Montreal on 28 May 1999
(Montreal Convention of 1999)

Giemulla/Schmid (Eds)

Annotated by
Elmar Giemulla
Ronald Schmid
Regula Dettling-Ott
Wolf Müller-Rostin



Wolters Kluwer

Summary of Contents

About the Authors	v
List of Abbreviations	xvii
Preface	xxiii
Montreal Convention 1999	1
Introduction: The System of Liability under the Warsaw Convention and Its Further Development by the Montreal Convention <i>Elmar Giemulla</i>	21
CHAPTER I General Provisions	59
ARTICLE 1 Scope of Application <i>Elmar Giemulla</i>	61
ARTICLE 2 Carriage Performed by State and Carriage of Postal Items <i>Elmar Giemulla</i>	91
CHAPTER II Documentation and Duties of the Parties Relating to the Carriage of Passengers, Baggage and Cargo	95
ARTICLE 3 Passengers and Baggage <i>Ronald Schmid</i>	97

Summary of Contents

Preliminary Remarks on Articles 4–16 <i>Wolf Müller-Rostin</i>	111
ARTICLE 4 Cargo <i>Wolf Müller-Rostin</i>	115
ARTICLE 5 Contents of Air Waybill or Cargo Receipt <i>Wolf Müller-Rostin</i>	121
ARTICLE 6 Document Relating to the Nature of the Cargo <i>Wolf Müller-Rostin</i>	127
ARTICLE 7 Description of the Air Waybill <i>Wolf Müller-Rostin</i>	131
ARTICLE 8 Documentation for Multiple Packages <i>Wolf Müller-Rostin</i>	137
ARTICLE 9 Non-compliance with Documentary Requirements <i>Wolf Müller-Rostin</i>	139
ARTICLE 10 Responsibility for Particulars of Documentation <i>Wolf Müller-Rostin</i>	143
ARTICLE 11 Evidentiary Value of Documentation <i>Wolf Müller-Rostin</i>	151
Preliminary Remarks on Articles 12–15 <i>Wolf Müller-Rostin</i>	163
ARTICLE 12 Right of Disposition of Cargo <i>Wolf Müller-Rostin</i>	165
ARTICLE 13 Delivery of the Cargo <i>Wolf Müller-Rostin</i>	183

ARTICLE 14	
Enforcement of the Rights of Consignor and Consignee	
<i>Wolf Müller-Rostin</i>	193
ARTICLE 15	
Relations of Consignor and Consignee or Mutual Relations of Third Parties	
<i>Wolf Müller-Rostin</i>	199
ARTICLE 16	
Formalities of Customs, Police or Other Public Authorities	
<i>Wolf Müller-Rostin</i>	203
CHAPTER III	
Liability of the Carrier and Extent of Compensation for Damage	209
ARTICLE 17	
Death and Injury of Passengers: Damage to Baggage	
<i>Ronald Schmid</i>	211
Preface to Article 18	
<i>Wolf Müller-Rostin</i>	271
ARTICLE 18	
Damage to Cargo	
<i>Wolf Müller-Rostin</i>	275
ARTICLE 19	
Delay	
<i>Ronald Schmid</i>	339
ARTICLE 20	
Exoneration	
<i>Elmar Giemulla</i>	381
ARTICLE 21	
Compensation in Case of Death or Injury of Passengers	
<i>Elmar Giemulla</i>	393
ARTICLE 22	
Limits of Liability in Relation to Delay, Baggage and Cargo	
<i>Elmar Giemulla</i>	409
ARTICLE 23	
Conversion of Monetary Units	
<i>Elmar Giemulla</i>	439

Summary of Contents

ARTICLE 24	
Review of the Limits of Liability	
<i>Elmar Gjemulla</i>	445
ARTICLE 25	
Stipulation on Limits	
<i>Elmar Gjemulla</i>	449
ARTICLE 26	
Invalidity of Contractual Provisions	
<i>Elmar Gjemulla</i>	455
ARTICLE 27	
Freedom to Contract	
<i>Ronald Schmid</i>	465
ARTICLE 28	
Advance Payments	
<i>Ronald Schmid</i>	467
ARTICLE 29	
Basis of Claims	
<i>Elmar Gjemulla</i>	475
ARTICLE 30	
Servants, Agents: Aggregation of Claims	
<i>Elmar Gjemulla</i>	497
ARTICLE 31	
Timely Notice of Complaints	
<i>Elmar Gjemulla</i>	505
ARTICLE 32	
Death of Person Liable	
<i>Elmar Gjemulla</i>	529
ARTICLE 33	
Jurisdiction	
<i>Regula Dettling-Ott</i>	531
ARTICLE 34	
Arbitration	
<i>Regula Dettling-Ott</i>	555

ARTICLE 35	
Limitation of Actions	
<i>Regula Dettling-Ott</i>	559
ARTICLE 36	
Successive Carriage	
<i>Wolf Müller-Rostin</i>	575
ARTICLE 37	
Rights of Recourse Against Third Parties	
<i>Wolf Müller-Rostin</i>	589
CHAPTER IV	
Combined Carriage	591
ARTICLE 38	
Combined Carriage	
<i>Wolf Müller-Rostin</i>	593
CHAPTER V	
Carriage By Air Performed by a Person Other Than the Contracting Carrier	599
ARTICLE 39	
Contracting Carrier – Actual Carrier	
<i>Regula Dettling-Ott</i>	601
ARTICLE 40	
Respective Liability of Contracting and Actual Carriers	
<i>Regula Dettling-Ott</i>	609
ARTICLE 41	
Mutual Liability	
<i>Regula Dettling-Ott</i>	613
ARTICLE 42	
Addresses of Complaints and Instructions	
<i>Regula Dettling-Ott</i>	617
ARTICLE 43	
Servants and Agents	
<i>Regula Dettling-Ott</i>	619

Summary of Contents

ARTICLE 44	
Aggregation of Damages	
<i>Regula Dettling-Ott</i>	621
ARTICLE 45	
Addressee of Claims	
<i>Regula Dettling-Ott</i>	623
ARTICLE 46	
Additional Jurisdiction	
<i>Regula Dettling-Ott</i>	625
ARTICLE 47	
Invalidity of Contractual Provisions	
<i>Regula Dettling-Ott</i>	631
ARTICLE 48	
Mutual Relations of Contracting and Actual Carriers	
<i>Regula Dettling-Ott</i>	633
CHAPTER VI	
Other Provisions	635
ARTICLE 49	
Mandatory Application	
<i>Elmar Giemulla</i>	637
ARTICLE 50	
Insurance	
<i>Wolf Müller-Rostin</i>	639
ARTICLE 51	
Carriage Performed in Extraordinary Circumstances	
<i>Ronald Schmid</i>	649
ARTICLE 52	
Definition of Days	
<i>Ronald Schmid</i>	653
CHAPTER VII	
Final Provisions	655
ARTICLE 53	
Signature, Ratification and Entry into Force	
<i>Ronald Schmid</i>	657

ARTICLE 54 Denunciation <i>Ronald Schmid</i>	661
ARTICLE 55 Relationship with Other Instruments Connected with the Warsaw Convention <i>Elmar Giemulla</i>	663
ARTICLE 56 States with More Than One System of Law <i>Elmar Giemulla</i>	667
ARTICLE 57 Reservations <i>Elmar Giemulla</i>	671
(Final Clause) <i>Elmar Giemulla</i>	679
Annexes	681
Annex I-1: Synopsis of MC, WC, WC/HP	683
Annex I-2: Contracting Parties to the Montreal Convention 1999	727
Annex II-1: Recommended Practice 1724	743
Annex II-2: Recommended Practice 1601 Conditions of Carriage for Cargo	763
Annex II-3: General Conditions of Carriage for Passengers and Baggage (flight ticket GCC)	781
Annex II-4: General Terms and Conditions of Carriage of Cargo of Lufthansa Cargo Aktiengesellschaft as of March 2022	801
Annex II-5: IATA-Resolution 507 B Revalidated for effect 1 October 1989 with indefinite expiry – Use of Surface Transportation	825
Annex II-6: Regulation (EC) No 785/2004 of the European Parliament and of the Council of 21 April 2004 on insurance requirements for air carriers and aircraft operators	829

Summary of Contents

Annex II-7: COUNCIL REGULATION (EC) No 2027/97 of 9 October 1997 on air carrier liability in respect of the carriage of passengers and their baggage by air as amended by Regulation (EC) No. 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No. 2027/97 on air carrier liability in the event of accidents	841
Annex II-8: Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004	849
Annex III-1a: International Civil Aviation Organization – Notification of Revision of Limits of Liability	863
Annex III-1b: International Civil Aviation Organization – Notification of Effective Date of Revised Limits	867
Annex III-2a: International Civil Aviation Organization	869
Annex III-2b: International Civil Aviation Organization	875
Bibliography	877