



# CONTRACT- BASED AIR TRANSPORTATION SYSTEM (CATS)

## The Regulatory Framework

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# Contract of Objectives

Principal Actors	ANSP	
	Aircraft	Airport operators

Their relationship is governed by and subject to public law, especially international public law instruments, such as:

- Chicago Convention on International Civil Aviation,
- ICAO Standards,
- Certain provisions of bilateral air services agreements
- European Community Law (SES) Packages I and II
- EUROCONTROL related international agreements

# The Chicago Convention



Mandatory international law rules  
190 State parties, including all European states

Relevant Provisions	States are responsible for air navigation services in their national airspace <i>Arts 1, 2 and 28</i>
	Uniform conditions for charges for the use of air navigation facilities by aircraft of all contracting States - <i>Art. 15</i>
	Harmonization of air navigation standards to be achieved through ICAO <i>Arts 37 and 38</i> <ul style="list-style-type: none"><li>• ICAO adopts standards and procedures</li><li>• in case of non-compliance with standards and procedures immediate notification to ICAO of the differences</li></ul>

# ICAO Standards



## Minimum standards

binding on ICAO member states – unless they notify differences to ICAO

➤ **Annex 2, Rules of the Air**

- flight plans
- air traffic control clearances
- provisions for deviations, etc.

➤ **Annex 6, Operation of Aircraft**

- communication and navigation equipment
- in-flight procedures
- flight safety programmes

➤ **Annex 11, Air Traffic Service**

- airspace classification
- coordination between military authorities and ATS
- establishment and designation of the units providing air traffic services

# European Community Law: the Single European Sky



- Establishment of a SES to
  - enhance safety
  - optimise capacity meeting the needs of airspace users
  - minimise delays
- Creation of cross-border Functional Airspace Blocks in upper airspace to facilitate efficiency of ATM in Europe
- Supporting a flexible use of airspace – sharing of airspace between civil and military
- Military airspace remains under national control, but coordination between civil and military authorities is required
- Laying down proposals for the reconfiguration of airspace and a more simplified airspace classification, subject to ICAO standards

# European Community Law: the Single European Sky



- Establishment of a charging scheme, in accordance with Art. 15 Chicago Conv. non-discriminatory, cost-related and transparent charges
- Creation of a European Upper Flight Information Region, recognized by ICAO
- Harmonisation of systems and procedures for the operation of a European Air Traffic Management Network, with a number of implementing Commission Regulation
- Modernisation of ATM in Europe through the SESAR Joint Undertaking, designed to support a high performance air traffic control infrastructure
- SES “II” of 21.10.2009: Introduction of “performance schemes” on targets on safety, capacity and cost efficiency (see Art. 11 of Reg. 1070/2009)

# EUROCONTROL Related International Agreements



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Basic Conventions	Agreement of European states on co-operation to foster ATM in the combined airspace
ESARRs (ECTRL Safety Regulatory Rqmts)	Binding standards that shall be made mandatory under EC law
Multilateral Agreement relating to Route Charges	Collection of user charges for en-route air navigation through the Central Route Charges Office
ECTRL – EC relationship	EC: member of ECTRL under the revised Conv. subsequent arrangements between the two

# Liability - Private International Air Law



## Warsaw/Montreal Conventions

**Liability of airlines for delay**  
**exoneration: all necessary measures to avoid the damage**  
**ANSP as an agent of the airline?**  
**Independent actions against airports pursuant to national law**  
**Alternative: airport as an agent of the carrier?**

## EC Regulations

**Implementing and establishing rules for delay**  
**See for instance Reg. 261/2004 as explained by various**  
**decisions of the ECJ**

# National Law and Policy

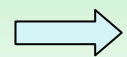


- Implement and supplement the above international and European rules
- May not conflict with international and European rules

# Conclusions

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Relationship between ATM actors is governed by public law, contractual agreements are scarce:



Airline-airport relations may have a contractual nature on quality assurances, unrelated to ATM



Airline-ATC relationship has contractual elements in the 'New Zealand model'  
Liability of ATC for delay is excluded



Galileo (European Satellite Positioning and Air Navigation System) may serve as a model:

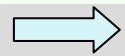
- private law agreements should be concluded between all actors involved
- public law agreements should be concluded between states to make sure that private air law agreements are harmonised and contain certain provisions

Obliging the user to enter into a contract with the provider might be necessary (by way of national laws or international agreements)

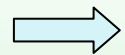
# Conclusions



The Contract of Objectives amounts to a true paradigm shift from a regulatory point of view



Field of application yet to be determined – e.g. are operators of state aircraft included?



Substantive provisions yet to be determined, subject to public law, unless otherwise agreed by participating states