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BOOK REVIEW

***Labour Relations in Aviation*, Jacomo Restellini. First edition. Aerospace Law and Policy Series Vol. 23. The Netherlands: Kluwer Law International. Alphen aan den Rijn. 2022. xxviii, 376 pp. Hardback EUR 150. ISBN 978-94-035-4561-5 (hardback), ISBN 978-94-035-4571-4 (e-Book), ISBN 978-94-035-4581-3 (web-PDF).**

Airlines undertake a variety of operating cost items, such as aircraft fuel, station expenses, administration expenses, and insurance charges. Among these contributing factors, the cost of employed personnel accounts for a significant proportion of total operating costs. And labour costs are one of the few variable costs under direct and more immediate control of management. In this connection, despite the considerable contribution that air transport industry makes to employment, aviation personnel is nevertheless in a vulnerable status in ever-changing market conditions. Labour conditions in aviation contribute to a multifaceted subject affecting safety because of, for instance, crew flight time and pilot fatigue, and, with that, security, liability in flights which are disrupted as a consequence of labour disputes, and fair competition between airlines in the European Union (EU) and global aviation market.

The coronavirus disease (COVID-19) pandemic and subsequent air traffic rebounds may potentially constitute a driving force, urging therefore international organizations, such as International Civil Aviation Organization (ICAO) and International Labour Organization to promptly act in response to socio-economic shortages. The pandemic caused many airlines to restructure through mass redundancies, transfers of undertakings or mergers, whereas the rapid recovery of aviation transportation put workers under great pressure due to staff shortages.

In the book *Labour Relations in Aviation*, Jacomo Restellini, who has made use of the network provided by distinguished alumni and friends of the International Institute of Air and Space Law of Leiden University, has thoroughly pioneered a new field of air law by bringing together subjects related to aviation labour law, and people dealing with them. The author and several distinguished contributors not only aim to fill in the gaps and to examine the current status quo of international and the EU regulations concerning aviation labour, but also set the

ambitious objective to trace the process of liberalization of aviation market and consequences on working conditions of crew members, acting as the basis for the future establishment of new rules to combine labour law regulations with the current air law regime.

The lawyers not very familiar with air law will find in Part I a clear explanation of main legal sources and actors of air law. Chapter 1 accurately acknowledges that air law is based on a pyramid structure in which the main legal principles and themes are defined at a global level by means of international conventions and agreements, which are then implemented, and sometimes expanded, at the national or regional level. Chapter 2 introduces the actors working on the development of international civil aviation legal framework.

Part II is devoted to a critical exploration in relation to how and to what extent labour relations are dealt with under the EU aviation law. This sub-field of law has become a prominent example of regional integration. In Chapter 3, Mr Restellini describes the broad outlines of the liberalization of the air transport market in the EU, during which new economic models of air carriers have raised social concerns about the applicable labour law and social security law. Specifically, the chapter manages to didactically introduce a very intricate and complex issue relating to operational structures of air carriers which are based on the definitions of principal place of business, secondary establishment, and operational base.

In Chapter 4, Prof. Dr Vincent Correia, who is Full Professor of Law (Professeur agrégé des facultés de droit) at the Université Paris-Saclay, analyses the limited impact of Regulation (EC) No. 1008/2008 on the working conditions of crew members. This Regulation represents the normative centrepiece of the EU single aviation market. The chapter identifies the regulatory challenge as Regulation (EC) No. 1008/2008 is not directly concerned with social aspects of air services nor does it take into consideration working conditions of crew members.

In Chapter 5, Dr Andrea Trimarchi, who holds a Ph.D. in Aviation Law (*magna cum laude*) from the University of Cologne, and has an extensive background in aviation labour law, accurately explains the role of labour standards and social conditions in the conclusion of bilateral Air Services Agreements (ASAs). ASAs have changed their focus from technical aspects of overflight to regulation of certain commercial elements of air transport. It is yet unclear to what extent states are willing to impose restrictions on labour conditions in their counterparts as a precondition to traffic rights benefits.

One of the book's objectives is that of showing, with a critical, yet constructive spirit, how the fragmentation of labour law and legal gaps in air law significantly affects aviation workers' social protection, in the first place, and the whole air transport industry, as a consequence. The reader can find the most relevant legal

implications in Part III. In Chapter 6, Mr Restellini elucidates the harmonization of working conditions for crew members in the EU normative context. The implementation of aviation safety rules concerns working time, flight time and the number of holidays per year, while each Member State remains free to enact its own national laws to address other aspects of working conditions.

The following Chapters 7, 8 and 9 focus on some questions of private international law. These relate to jurisdiction issues which arise with respect to aircrew employment. Chapter 7 addresses the social security law applicable to crew members, and Chapter 8 discusses the competent court and applicable labour law. The discussions in these two chapters take into consideration the fact that the EU's case law has pioneered in this area, speculating relevant notions in case laws. In addition, the EU legislative framework on posted workers is a complex one, where social security law and labour law are intertwined. Therefore, Chapter 9 is dedicated to describing the difficulties arising out of the lack of a clear definition of a 'posted worker' and legal ambiguity with regard to the identification of the regulatory authority who is responsible for the application of the posting provisions.

Chapter 10 critically discusses the emergence of atypical employment in air transport. The atypical employment refers to all forms of employment or cooperation between a crew member and an airline other than an open-ended employment contract, which are being increasingly used in the aviation industry. These include work via temporary agencies, fixed-term work, self-employment, pay-to-fly schemes and zero-hour contracts. While from a purely legal perspective, atypical contractual forms of employment may not necessarily be prohibited or unlawful, significant concerns and alarming tendencies arise from the application of such contractual forms.

Chapter 11 concerns the data protection of crew members. It was authored by Stéphanie Golinvaux who leads the sectors of Transport & Infrastructure at AdaStone law firm. Usually shadowed by passengers' personal data at the centre of airlines' preoccupations, particular attention must, however, be borne to crew members.

In Chapter 12, Dr Andrea Trimarchi addresses the impact of crew members' strikes on major airlines' operation and management. Strikes are likely to incur tremendous operational and financial damages related, for example, to the rescheduling of flights, passenger compensation or the non-usage of aircraft. In addition, Dr Trimarchi looks at strikes put in place by Air Traffic Controllers, which generally have nationwide coverage, by airports staff or by ground handling operators.

While Part III carries out an in-depth legal analysis of the position of crew members, Part IV takes a broader view of employment in air transport. Chapter 13

gives a detailed account of the different situations relating to the transfer of aviation undertakings, which leaves the fate of employees in a perpetual state of uncertainty.

Chapter 14 addresses gender equality in civil aviation. Progress of women in the world of work has been slow in a number of sectors, including civil aviation, where there remain clear gaps in a range of occupations. The chapter takes the position that there are a number of challenges when it comes to developing harmonized and binding legislative instruments to secure the increased participation of women in this sector.

The following Chapters 15 and 16 are devoted to freedom of association and effective recognition of the right to collective bargaining. Chapter 15 was written by Pietro Nisi, who is a partner at the RP Legal & Tax law firm. As the chapter accurately acknowledges, better conditions of work for personnel depend on the existence of the unions. Chapter 16 was written by Laura Pierallini who is the founder and named partner of the Italian law firm Studio Pierallini and a professor of Commercial Law and Air Law at the LUISS University of Rome. Chapter 16 introduces the dynamics, functioning and contents of collective labour agreements within the air transport sector.

The book ends with an annex that includes the excerpt of relevant legal texts. Finally, there is an index that offers additional help to the readers so that they can easily navigate the book.

Overall, this book constitutes an extremely serious work and a meaningful addition to the existing air law literature. As the author and editor-in-chief, Mr Restellini has clearly taken a great deal of effort to present his research in an accessible way for people at all levels. Well-written, thorough and extensively researched, this book will definitely guide its readers through a difficult and multifaceted topic that will become more and more important in the years to come. This statement may not come as a surprise as many of the authors are well-known scholars, lawyers, and aviation professionals. The reader will appreciate the balanced and precise manner in which the various subject matters are structured and will, without a doubt, feel enriched after reading the book.

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