

Lazarski University

Faculty of Law and Administration

Piotr Mazur

Summary of PhD dissertation

## **„Baseline for international ground handling regulations**

Dualism of ICAO and WTO global regimes and liberalization of this sector in Europe”

This dissertation concerns ground handling regulations and their position within international law. Structure of current legal framework governing this market sector has unparalleled influence on the shape of industry and relations between all its stakeholders.

Aviation law is regulating very global and interdisciplinary industry. Aside most obvious economic activities like manufacturing and air transport services aviation consists of various smaller elements that are combined in a single system. One of the key areas influencing both passengers and airlines is ground handling – series of tasks performed against aircraft and its users between landing and take-off from the airport. This dissertation identifies discrepancies between legal acts that may be governing this market sector globally, regionally and domestically. It focuses on hard law analysis as well as on non-binding instructions of professional agencies and unions creating guidelines for the industry. Core regulations analyzed are:

- Convention on International Civil Aviation, signed in Chicago on 7<sup>th</sup> December 1944 r., (Journal of Laws of 1959 No. 35, item. 212, with further amendments), with Annexes (hereinafter: „CC”)
- Annex 1B to Uruguay Round of Multilateral Trade Negotiations (1986- 1994) — Agreement establishing the World Trade Organization (WTO) (OJ L 336, 23.12.1994) - General Agreement on Trade in Services with Annexes, (hereinafter: “GATS”)
- Council Directive 96/67/EC of 15 October 1996 on access to the ground handling market at Community airports, *OJ L 272, 25.10.1996* (hereinafter: „Directive 96/67”)
- Instructions and manuals of International Air Transport Association (hereinafter: „IATA”)

Each of those regulations impact the ground handling business. However, integrity and efficiency of legal regime founded on those regulations is questioned when applied to ground handling and alternative solutions de lege ferenda are being proposed.

This dissertation describes relations between ground handling, general trade in services and air transport itself from legal but also economical and organizational perspective. Such an interdisciplinary approach required adequate research methods related to different fields of studies: law and economics. Economic analysis of law and legal comparison have been used next to economical system research. The first one allowed to compare legislative solutions in different regulatory regimes to market conditions in governed areas. This led to definition of the influence law has on economic conditions and market activities – on creation of laws. Legal comparison analyzed different acts concerning ground handling services emphasizing on the most efficient or the most imbalanced solutions used that shape current situation in this sector. Simultaneously those acts are also a framework for operational side of services providing – ground handling services is a complex process. For this reasons system research and process mapping were used in order to picture sequence of activities and their relation with ground handling as a whole and with corresponding legal provisions. Only legal, industrial and operational analysis combined could fully describe current condition of the ground handling sector, to some extent associated with the development of air transport. Such comprehensive analysis led to identification of relations between the applied regulatory solutions and the economic situation of the ground handling market, as well as the consistency of these regulations with the ground handling process itself and the activities performed during provision of these services.

Main thesis of this dissertation is that there is a duopoly of global ground handling regulations: of those created by World Trade Organization and International Civil Aviation Organization. Verification of this thesis and proposition on how to amend current status quo required application of supporting thesis that could answer which of the aforementioned organizations should govern this market globally.

1. Ground handling services are directly related to air transport service and execution of traffic rights
2. Ongoing liberalization of ground handling sector, like the one in the European Union, does not fully abolish legal and economic barriers of entry on this market
3. The most important aim of ground handling regulations is to help align different scopes of interest of the stakeholders on legal, economical and operational level

The dissertation consists of six chapters divided into three parts.

The first one defines ground handling services and describes each of their category and related scope of work. This leads to identification of discrepancies within those categories among different legal acts. Further, economic conditions are described: possible legal and political approach to the topic, most

important milestones of sector regulation as well as a network of mutual relations between different stakeholders: airlines, national aviation authorities, airport operators, passengers and ground handling agents. Such analysis is critical to understand complexity of this sector and often contradictory expectations entities may have on certain legal solutions especially when collated with mutual influence of ground handling services and air transport market. From there the thesis focuses on current economic condition of this sector globally and is concluded with prognosis of the future development of ground handling determined by growth of air traffic.

The second part is analyzing ground handling regulations on a global and European stage.

This section aims to identify discrepancies between provisions of various legal acts, creating foundations for trade in services but representing different approach toward ground handling. First chapters focus on CC and GATS while also including “operational” instructions of IATA as well as other international agreements. This approach enables to identify aforementioned dualism and drafts state of the art of current regulations – their origins and consequences. This section does not however answer to the question which of those legal regimes would serve sector most efficiently. This requires analysis of supporting thesis enlisted above, emphasizing on relation of ground handling services to the traffic rights.

The next chapters of this section focus on European ground handling regulations. Directive 96/67, aimed to liberalize European ground handling influenced Member States and all sector stakeholders in various ways, not always according to the expectations of the European Commission. This and other European aviation law acts create a unique system of regulations that could help answering, which rules and solutions introduced by identified duopoly of GATS and CC shall be accounted for when unifying ground handling in a global scale.

The last, third section is a summary of previous chapters that leads to answering the question which of the legal regimes, which set of rules should actually be governing ground handling services. What law shall be created to maximize efficiency of those operations while upholding key values that should remain cornerstone of aviation. Such regulations should on the other hand restrain from introducing revolutionary changes to the current system that would negatively impact on the stable regulations of air transport services. Process map used allowed to break down ground handling process into singular activities and assign them to specific legal solutions. Such placement provides unified definition of each ground handling category, their relation with participating stakeholders and proposes a leading rule of law to govern them. As such, this analysis is not intended to create proposals for new legal acts nor to thoroughly change the system of existing regulations. The thesis assumes that a more effective and less invasive solution is to adapt existing legal provisions to the current economic situation and to remedy identified gaps to ensure: protection of the principles governing the aviation market, grant economic benefits to all its stakeholders and respect currently binding rules of law.