

Aviation Passenger Contracts

Monday 8 May 2017: Module 3

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OVERVIEW

- I. What is a ticket?
- II. From Warsaw System to Montreal 99
- III. Conditions of Carriage
- IV. Passenger Rights Legislation
- V. Cargo: Air Consignment Note or Air Waybills

I. What is a ticket?

- Invitation to treat?
- Binding agreement?
- Means to assert liability limits?
- Pro-Consumer or pro-airline?



- **Airline ticket is a contract!**
 - Ticket + Conditions of Contract + Conditions of Carriage
= Contract of Carriage
- **Governing laws:**
 - Domestic flights
 - National contract law (eg. Flight Istanbul - Antalya: Turkish law)
 - International flights
 - States have harmonised rules for liability for pax injury & death as well as for damage & loss of luggage & cargo:
 - Warsaw System (= Warsaw Convention 1929 + its protocols & amendments)
 - Consolidated & partially amended in Montreal Convention 99

II. From Warsaw System to Montreal 99

1. Warsaw System

- *Quid pro quo* between airline & pax:
 - Liability = Limited (capping potential liability)
 - But also Strict – Plaintiff need prove only damages
 - Reduces plaintiff's evidentiary burden
- Pax must be aware of limited liability
 - i.e. Pax must be aware of terms of the contract, so there is a mutual assent
 - Warsaw limited liability applies only when air carrier delivers to pax a ticket specifying certain information (cf. Art 3 next slide)

Art. 3 Warsaw Convention

- The ticket must state:
 - the place and date of issue;
 - the place of departure and of destination;
 - the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
 - the name and address of the carrier or carriers;
 - a statement that the carriage is subject to the rules relating to liability established by this Convention.

2. Montreal 99

- Modifications to Warsaw to accommodate e-ticketing
- Airline must issue “an individual or collective document of carriage, containing:
 - An indication of the places of departure & destination;
 - If the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.”

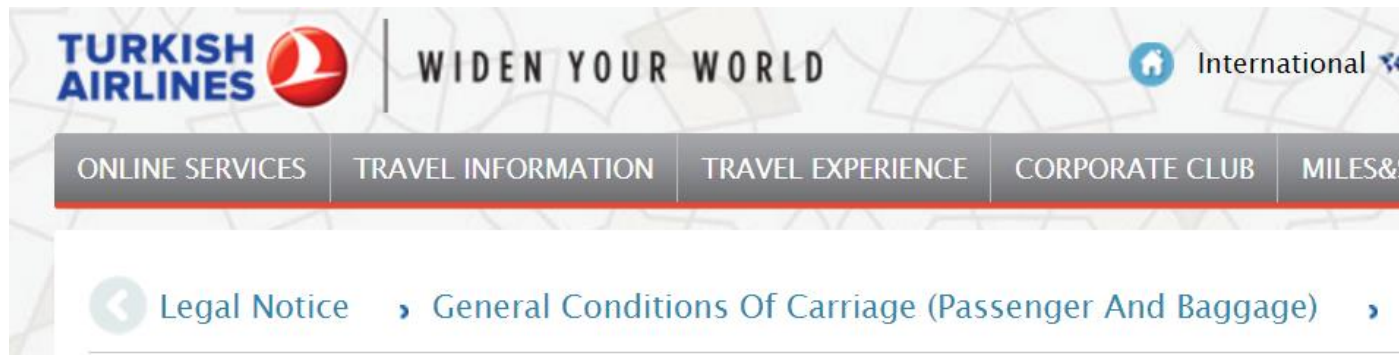
- **Montreal Convention makes a significant departure from the Warsaw Convention:**
 - *“Noncompliance ... shall not affect the existence and validity of the contract of carriage, which shall, nonetheless, but subject to the rules of this Convention including those relating to limitation of liability.”*
- Failure to comply with notice provisions will **not** preclude application of the Convention
- **Turkey** became Party to Montreal 99 on 26 March 2011, however if Turkish air carrier serves a destination that has not joined Montreal 99, then Warsaw will apply

III. Conditions of Carriage

- Every airline has them

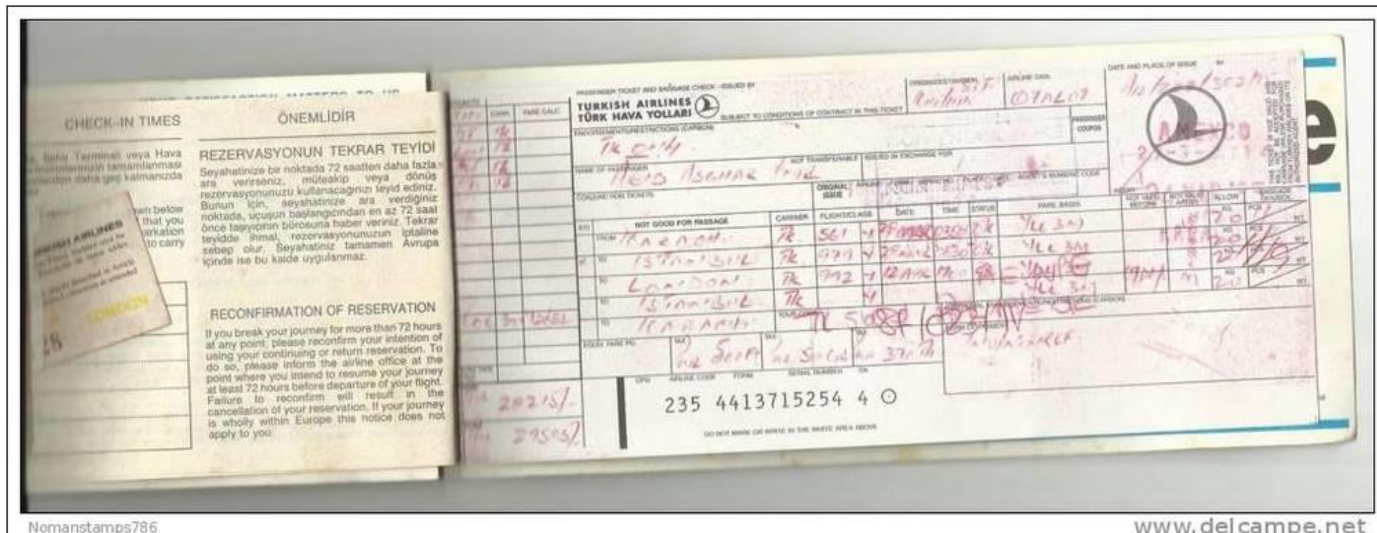
→ Turkish Airlines:

<http://www.turkishairlines.com/en-int/travel-information/legal-notice/general-conditions-of-carriage-Passenger-and-baggage/definition>



- All look the same...

- **Ticket = essential part of the contract of carriage**
 - Most carriers include conditions of contract (abbreviated version of the conditions of carriage) with the ticket
- **In days of paper tickets**, the ticket was too small to hold all of the terms or conditions



Nomanstamps786
Nomanstamps786

www.delcampe.net
www.delcampe.net

Contract of Carriage =

Ticket (with conditions of contract) + conditions of carriage

- Conditions of carriage set forth in separate document, incorporated by reference on ticket
- Incorporation by reference:
 - Tool of contract law, whereby certain conditions or terms are incorporated into a document by a reference in that document from another document
 - Where a ticket expressly references the conditions of carriage, those conditions become part of the ticket

In digital era, notice of conditions of carriage satisfied by ticking a box prior to purchasing the ticket online

- Notice to make all parties informed of contract's terms
- Otherwise, no contract.

Credit Card Details

Credit Card
 Debit Card

Card Number
Expiration Date 03 ▼ 2017 ▼
 Security Number

Cardholder's Address Information

Country* " Select Country " ▼
 City*
State**
Postal/ZIP Code***

Address*

*Required
 **Required for USA and Canada
 ***Required for UK, USA and Canada

! By clicking the "Continue" button you will be directed to the web page of your card issuer bank for the verification of 3D Secure process. After verification of the bank, you will be re-directed to Turkish Airlines web pages.

- Please note the warnings about card presentation on the next page.
- Refund of payments made via Turkish banks? debit cards may delay due to restrictions in the banking system. For detailed information please call +90 444 0 849 (Turkish Airlines Call Center).
- Please note that Turkish Airlines is based in Turkey and your card issuing bank may charge extra fee for usage of your card in a foreign country even for your online transaction. Please contact your card issuing bank for further details.

✓ I agree to be bound by the rules of **Terms&Conditions, General Conditions of Carriage** on THY web site and **fare notes** of the ticket reserved, and I **confirm** the accuracy of the information I entered and that I will be immediately charged for the full amount of the ordered ticket(s) to my card.

Next ➔

“Terms & Conditions”:

<http://www.turkishairlines.com/en-tr/travel-information/legal-notice/terms-amp-conditions/general-rules>

“General Conditions of Carriage”:

<http://www.turkishairlines.com/en-int/travel-information/legal-notice/general-conditions-of-carriage-passenger-and-baggage/definition>

“fare notes”:

<https://online.turkishairlines.com/internet-booking/goNotes.tk>



- In **modern era** of **interlining, code sharing and alliance**, pax purchase tickets from marketing carrier but are transported by operating carrier
 - Anomalies and different treatments can arise between pax sitting side-by-side on the same flight
 - Beneficial to pax & AL for conditions of carriage to be essentially the same for all parties
- In order to create **inter-lineable conditions of carriage**, **IATA** developed standard General Conditions of Carriage:
 - Resolution 724
 - Recommended Practice 1724
 - Recommended Practice 1724 has been rescinded, **HOWEVER** most airlines still follow it.

- **General Conditions of Carriage include:**
 - A notice of liability (Article 1)
 - Stop overs (Article 4)
 - Fares and charges (Article 5)
 - Reservations (Article 6)
 - Check in (Article 7)
 - Refusal and limitation of carriage (Article 8)
 - Baggage (Article 9)
 - Schedules and cancellations (Article 10)
 - Refunds (Article 11)

IV. Passenger Rights

- Conditions of carriage pre-date modern consumer law
- Consumer groups argued against a number of the terms from RP1724
 - No guarantee of actual carriage
 - To agreed destination
 - In accordance with schedule
 - Clear imbalance of bargaining power
- Advocated additional passenger protections
- European response: Regulation (EC) 261/2004

V. Cargo: Air Consignment Note or Air Waybills

ATLANTIC EXPRESS AND CARGO		AIR WAY BILL	
Reaching out to the world- Anywhere, Anytime		INTERNATIONAL DIPLOMATIC: WORLD WIDE SHIPMENTS ONLY	
1 FROM (SENDER) Sender's name AHMAD GARRY Sender reference first twelve character will be shown on invoice AEAC/00/1900/08 Address 20 LAUSANNE ROAD LONDON, SW 2, 3JB UK ENGLAND. Postcodes 56800		Quote This Shipment Number At Enquiry  30077530302100408855	
2 TO (RECEIVER) Receiver's name ISMAH HARRUSATY Address (Kantor Karantina Pertanian, Jalan Selat Madura Nomor 3 Pelabuhan Tanjung Intan Cilacap-kode pos:53123) Delivery destination INDONESIA Postcodes 53123 Tell 006281325918042 or 0066533920		4 SHIPMENT DETAILS All payment and services are available in selected countries Services <input checked="" type="checkbox"/> DIPLOMATIC DOCUMENT <input checked="" type="checkbox"/> WORLD WIDE DIPLOMATIC PACKAGE <input type="checkbox"/> DOMESTIC PACKAGE <input type="checkbox"/> WORLD MAIL <input checked="" type="checkbox"/> OTHER SERVICE Transport Charges If left blank sender Days transport charges <input type="checkbox"/> Receiver <input type="checkbox"/> Cash/Cheque/Credit Card For approved customers only <input type="checkbox"/> External Billing Agreement SHIPMENT INSURANCE <input type="checkbox"/> YES <input type="checkbox"/> NO	
3 SENDER'S AUTHORISATION AND SIGNATURE I/we agree that AEAC standard terms apply to this shipment and limit AEAC liability. The warsaw convention may also apply (see reverse) I/we understand that AEAC transport diplomatic goods (see reverse) 		5 SECURITY CHECKED YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> HARMONISED COMMODITY CODE IF APPLIES Type of export <input type="checkbox"/> PERMANENT <input type="checkbox"/> REPAIR/RETURN <input type="checkbox"/> TEMPORARY <input type="checkbox"/> Destination duties/taxes, if left blank receiver pay duties/tax <input type="checkbox"/> Reciever <input type="checkbox"/> Sender <input type="checkbox"/> Other Specify destination approved account number	
Full Description Of Cargo One Trunk Box Containing Bank Values		6 SIZE AND WEIGHT NO OF PIECES ONE (BOX) WEIGHT 25.59KG VOLUME TRIC/CHARGED WEIGHT CODES CLEARING CHARGES SERVICE Shipment GBP 900:00 Handling Charge GBP 700:00 Total Charges: GBP 1,600:00 CURRENCY CODE BRITISH POUNDS Sender Paid : GBP 1,600:00 Total Balance: GBP XXXXXX Receiver to Pay Balance at Delivery : GBP XXXXXX TRANSPORT COLLECT STICKERS NO PAYMENT DETAILS Payment at destination YES NO PACKAGED BY ATLANTIC EXPRESS AND CARGO ROUTE NO. 0011AB399 DATE: 19/08/2011	

Warsaw System and Montreal 99 also apply to cargo

1. Warsaw Convention

- Mandates air consignment notes
 - Consignment: act of handing goods over to another party for sale or transport
 - Consignee: party handing over goods
 - Consignor: air carrier
- Warsaw mandates certain terms to include in air consignment notes (As with luggage ticket)

2. Montreal 1999

- Uses terms '*air way bills*' and/or cargo receipts, but essentially the same as an air consignment note
- Under Montreal 1999, air way bill must include:
 - an indication of the places of departure and destination;
 - if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
 - an indication of the weight of the consignment.

IATA AWB Conditions of Contract – Res. 600b

- Notice on face of AWB:
 - Goods in good order
 - Carriage by other means
 - Intermediate stopping places
 - Limitation of liability



001 NYC 12345678 001-22345678

Air Waybill

SHIPPER: CABLE AND STEEL COMPANY
1124 INDUSTRIAL STREET
NEW YORK, USA
PHONE: 555 12 34

ADDRESSEE: CABLE AND STEEL COMPANY
4121, RIVERS STREET
LONDON, ENGLAND
PHONE: 555 12 34

AWB NUMBER: 001-22345678

DATE OF ISSUE: 11-11-2000

NEW YORK CITY

LEB: AA

STATUS: 001-22345678

Item No.	Weight	Volume	Value	Remarks
1	324.00		1234.00	SOME STEEL
2	324.00		1234.00	
TOTAL			2468.00	

Signature of Shipper: _____

Signature of Addressee: _____

Signature of Carrier: _____

Signature of Station: _____

ORIGINAL 1 (FOR ISSUING CARRIER) 001-22345678

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