



Legal Update: Aviation Law

September 2020

Dear Clients,

We are pleased to provide you with aviation law updates.

Motions to Certify Class Actions

The District Court consolidated a hearing involving different motions to certify class actions which were submitted against airlines. Common to all of the class actions was the request to order a remedy of statutory compensation pursuant to the Aviation Services Law (Compensation and Assistance for Flight Cancellation or Change of Conditions) 5772-2012 (hereinafter: the "**Aviation Services Law**").

The District Court dismissed the class actions at the outset of the proceeding (and ordered the Applicants' to pay legal costs), and held:

- 1) It is not possible to claim statutory compensation for the cancellation of a flight pursuant to the Aviation Services Law in the framework of a class action – and this in light of section 20(e) of the Class Actions Law. In addition, it is not possible to claim a declaratory remedy in the framework of a class action whose objective was obtaining statutory compensation;
- 2) It is not possible to submit a claim against an air carrier for damages which were incurred during the air transport except pursuant to the Aviation Services Law and the Air Transport Law (which adopted the Montreal Convention), due to the exclusive cause provisions established therein;
- 3) There is nothing precluding bringing suit for other remedies under the Aviation Services Law in the framework of a class action (such as refunds of consideration, alternative flight tickets and assistance services).

[The consolidated motions were: Class Action (Central) 56458-11-19 **Klein v. El Al Israel Airlines Ltd.**; Class Action 55278-03-18 **Beer v. Aeroflot Russian Airlines**; Class Action 18746-01-19 **Sandalman et al. v. Ryanair Limited**; Class Action 58610-01-19 **Bar Schneider et al. v. EasyJet**; Class Action 60667-01-19 **Golan v. El Al Israel Airlines Ltd.**; Class Action 32778-03-19 **Azrov v. Aeroflot Russian Airlines**; Class Action **Maoz v. Ryanair Limited**].

Aviation Services Order (Compensation and Assistance for Flight Cancellation or Change of Conditions) (The Novel Coronavirus – Temporary Order – Amendment) (Extension of the Effective Period) 5780-2020

Under the Aviation Services Order (Compensation and Assistance for Flight Cancellation or Change of Conditions) (The Novel Coronavirus – Temporary Order – Amendment) (Extension of the Effective Period) 5780-2020 which was published on August 25, 2020, the period which the amendment to the Aviation Services Law applies was extended so that it would apply to any flight scheduled to depart from March 1, 2020 until October 24, 2020 and which the flight operator and/or organizer cancelled (and not until August 31 which was the date previously established prior to the entry into force of the new order).

Regulations on Special Authorities for Managing the Novel Coronavirus (Temporary Order) (Restrictions on the operation of airports and flights), 5780-2020

On August 14, 2020, the Knesset published the Regulations on Special Authorities for Managing the Novel Coronavirus (Temporary Order) (Restrictions on the operation of airports and flights), 5780-2020 which came into force on August 21, 2020. Under these regulations, obligations were imposed on flight operators regarding the operation of their flights.

The regulations mandate flight operators to take various actions in order to permit the operation of their flights, to prepare the aircraft carrying out the flights, and among other things, also to provide notice to the passengers on the regulations' requirements. These requirements include the requirement to wear a mask, sanitize the air and clean the aircraft; measure the passenger's body temperature near the time of his boarding of the aircraft, and to submit a signed declaration on the fulfillment of the regulations.

A flight operator who fails to fulfill the requirements in the regulations will be subject to an administrative monetary sanction as set out in the regulations.

We would be happy to provide with additional information with respect to the flight operator's obligations under the regulations and we are available for any questions or clarifications.

Agreement between Israel and the United Arab Emirates

Following the agreement brokered by the US signed between Israel and the United Arab Emirates on 13 August 2020, establishing full diplomatic relations between the two nations, the first official flight from Israel to the United Arab Emirates landed on August 31 - a major step in normalizing relations.

FBC's Aviation team welcomes the agreement between the UAE and Israel, which we

are confident will lead to growing trade relations between Arab states and Israel, will expand their commercial, security and other ties in aviation and tourism, and will create other mutual investment opportunities.

FBC's Aviation team sends warm greetings to Emirates Airlines, Etihad Airways and Fly Dubai, and we look forward to seeing you soon.

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Sincerely,

Fischer Behar Chen Well Orion & Co

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