

## Legislative Developments in the Aviation Sector in 2009

by

Filip Czernicki\*

The Polish Aviation Law (in Polish: *Prawo Lotnicze*; hereinafter, PL) of 3 July 2002 was amended three times in 2009 and accompanied by eight new acts of secondary legislations (executive orders) issued by the Minister of Infrastructure.

The first set of amendments was introduced by the Act on the amendment of the freedom of trading activity act of 19 December 2008<sup>1</sup> which entered into force on 19 January 2009. On its basis, Article 27 PL has been included into the scope of the authority of the employees of the Polish Civil Aviation Office (in Polish: *Urząd Lotnictwa Cywilnego*; hereinafter, ULC). The new rules provide ULC employees with the authority to control all civil aviation companies, civil aviation employees and airport managing companies.

The second set of amendments was implemented by the Act on civil servants of 21 November 2008<sup>2</sup> that entered into force on 24 March 2009. On its basis, the entirety of Article 20 PL has been changed by the introduction of a new, transparent and competitive procedure for the selection and appointment of the ULC President. According to the new rules, the recruitment advertisement must be published at ULC Headquarters as well as in the Public Information Bulletin. The amendment sets out what information must be provided in the advertisement as well as the fact that the advertisement must contain the detailed schedule of the recruitment procedure. The new provisions list also a number of requirements applicable to those who wish to run for the President or Vice President of ULC. Finally, the new rules oblige the selection committee to narrow down the list of candidates to 3 individuals to be presented to

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\* Filip Czernicki, Analysys' and Projects Section Manager in the Department of Subsidiaries' Supervision, 'Polish Airports' State Enterprise PPL, Plenipotentiary responsible for the creation of the Modlin Airport.

<sup>1</sup> Journal of Laws No. 18, item 97.

<sup>2</sup> Journal of Laws No. 227, item 1505.

the Minister of Transportation who then ultimately selects the President and publishes such information.

The third set of amendments was introduced by the Act on special procedures on the preparation and leading investments in civil airports of 12 February 2009<sup>3</sup>. On its basis, Articles 55, 56, and 57 PL were slightly modified with respect to administrative procedure in order to achieve compliance with the new rules on the creation and investments in civil airports. These amendments entered into force on 17 April 2009.

Eight acts of secondary legislation (executive orders) concerning the aviation sector were issued by the Minister of Infrastructure in 2009.

First, the order of 7 January 2009 sets out the rules on the inspection of foreign aircrafts<sup>4</sup>. On its basis, an inspection is lead accordingly to the plan approved by the ULC President with respect to the procedural rules adopted by the European security check program of foreign aircrafts (SAFA).

Second, the executive order of 13 March 2009 introduces ICAO requirements concerning the use of abbreviations and codes maintained in civil aviation (ICAO Abbreviations and Codes (Doc 8400)), under the name PANS-ABC<sup>5</sup>.

The third and fourth executive orders dated 26 March 2009 contains detailed rules of the functioning of aviation telecommunication<sup>6</sup> and aeronautical information services<sup>7</sup>. The first refers to the conditions and methods of aviation telecommunication rules that were adopted by chapters I-V of Appendix 10 to the convention on international civil aviation signed in Chicago on 7 December 1944. The second act refers to the organization of aeronautical information services adopted by Appendix 15 of the same convention.

Fifth, the executive order of 7 April 2009 introduces the requirements necessary for the application of EUROCONTROL route charges system regulations<sup>8</sup>. The order states the conditions of the system of route charges and payment as well as the rules for the determination of the cost base for route charges and the calculation of unit rates. The ULC President will publish all of the aforementioned detailed rules.

The sixth executive order dated 25 May 2009 on ground handling at airports<sup>9</sup> specifies: a detailed list of service types in the various categories of ground handling services; specific conditions and procedures for the authorization to

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<sup>3</sup> Journal of Laws No. 161, item 1281.

<sup>4</sup> Journal of Laws No. 5, item 23.

<sup>5</sup> Journal of Laws No. 53, item 438.

<sup>6</sup> Journal of Laws No. 58, item 479.

<sup>7</sup> Journal of Laws No. 58, item 478.

<sup>8</sup> Journal of Laws No. 61, item 500.

<sup>9</sup> Journal of Laws No. 83, item 695.

carry out ground handling, the documents and information to be presented when applying for a permit and the conditions to be met by the applicant; specific conditions used for the introduction of the restrictions referred to in Article 179(1) and Article 181(2) PL, in particular with respect to the categories of ground handling services and the quantities served annually for passengers and cargo and the available space or the airport's capacity; detailed terms and methods of the organization and conduct of tenders referred to in Article 179(2) and Article 181(3) PL; detailed arrangements for the provision and use of airport infrastructure, the setting and charging for access to equipment, facilities and fees for the use of centralised infrastructure; the specific requirements relating to access to ground handling market.

The seventh executive order dated 24 June 2009 on the amendment of the executive order on licensing of aviation personnel introduces a number of changes to licensing procedures<sup>10</sup>.

Eighth, the order of 17 July 2009 on the National Training Program for Aviation Security<sup>11</sup> sets out how to organize and conduct training programs on safeguarding civil aviation from acts of unlawful interference, in particular:

- 1) the organization and functioning of the training system in civil aviation security;
- 2) the methodology for training in the field of civil aviation security;
- 3) the criteria and method of selection, qualification, certification and motivation of staff in the field of civil aviation security.

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<sup>10</sup> Journal of Laws No. 113, item 942.

<sup>11</sup> Journal of Laws No. 122, item 1011.