THE IMPACT OF WAR ON GLOBAL AVIATION ECONOMICS: A LEGAL AND REGULATORY STUDY

ABSTRACT

Aviation occupies a peculiar position in global commerce it is at once a strategic national asset and a creature of international economic interdependence in ways that few other industries can claim. When wars erupt, their consequences ripple swiftly and disproportionately through the aviation sector. This article examines the multidimensional economic and legal disruptions that armed conflicts impose on civil aviation, with particular attention to fuel price volatility, airline insolvency, ticket inflation, and war-risk insurance costs. It analyses the adequacy of existing legal frameworks including the Chicago Convention, the Warsaw and Montreal Conventions, bilateral air services agreements, and national competition law in addressing these disruptions. The paper further examines how governments have responded through emergency subsidies, state aid, and regulatory forbearance, while interrogating whether such interventions are consistent with international competition law norms, particularly under the World Trade Organisation framework and the European Union state aid regime. Drawing on the experiences of the Gulf War (1990– 1991), the September 11 aftermath, the Russia–Ukraine conflict (2022 onwards), and the COVID19 pandemic as an analogous economic shock, the article concludes that existing legal frameworks are structurally ill-suited to address war-induced aviation crises and advocates for a dedicated multilateral legal instrument for aviation economic emergency management.

Keywords: Aviation Law, War-Risk Insurance, Airline Insolvency, State Aid, Chicago Convention.

I. Introduction

War, at its most elemental, is a rupture. It tears apart supply chains, redirects state resources, and reconfigures the geopolitical architecture within which commerce operates. Few industries feel this rupture more acutely than civil aviation. Airlines are capital-intensive, fuel-dependent, and operationally exposed to precisely the kinds of disruptions that armed conflict produces: surging oil prices, closed airspaces, collapsed tourist markets, and a flight of risk capital. Yet the legal frameworks that govern aviation constructed painstakingly through decades of multilateral diplomacy were not designed with the economics of war in mind.[1]

The aviation industry today connects approximately 4.5 billion passengers annually and underpins a global economic contribution of some USD 3.5 trillion.[2] Its legal underpinnings rest primarily on the 1944 Chicago Convention, a post-war instrument that established the institutional architecture of the International Civil Aviation Organisation (ICAO) and asserted the foundational principle of state sovereignty over airspace.[3] Layered upon this are a dense web of bilateral air services agreements, the Warsaw/Montreal liability regime, and a growing body of regional regulation notably the European Union's common aviation area. Yet none of these instruments directly addresses what happens to airlines, consumers, or economies when wars break out.[4] What makes war particularly destabilising for aviation is not simply the immediate physical danger to aircraft operating near conflict zones. Rather, the deeper and more durable harm arises from the cascading economic effects that armed conflict sets in motion: the closure of strategic airspaces that affects routes thousands of kilometres from the battlefield; the withdrawal of insurance cover that renders safe aircraft legally unairworthy overnight; the collapse of consumer confidence that empties seats on routes entirely unconnected to the fighting; and the fiscal crises that leave cashstrapped

[1] International Air Transport Association (IATA), 'War Disruptions and Aviation' (IATA Economic Report, 2022) <https://www.iata.org> accessed 6 May 2026.
[2] Air Transport Action Group (ATAG), Aviation Benefits Beyond Borders (ATAG 2020) 9.
[3] Convention on International Civil Aviation (Chicago Convention), opened for signature 7 December 1944, 15 UNTS 295 (entered into force 4 April 1947).
[4] PABLO MENDES DE LEON, INTRODUCTION TO AIR LAW 45–51 (10th ed. 2017).

governments unable to support their national carriers even when the political will to do so exists. These are not theoretical risks. They have materialized, repeatedly, across different

conflicts and different regions, producing broadly similar patterns of economic dislocation that existing legal instruments have consistently proved unable to manage.

This article proceeds in six substantive parts. Part II traces the economic mechanisms through which war disrupts aviation, examining fuel costs, insolvency, ticket inflation, and insurance. Part III analyses the adequacy of existing international legal frameworks. Part IV considers government financial interventions and their consistency with international competition law. Part V examines the implications for aviation consumer rights. Part VI offers comparative insights from key jurisdictions. The article concludes with concrete proposals for legal reform.

II. Economic Mechanisms of War-Induced Aviation Disruption

A. Fuel Price Volatility

Jet fuel typically constitutes between 20 and 30 per cent of an airline's total operating costs during periods of stability. During the Gulf War of 1990–1991, oil prices doubled within a matter of weeks as Saudi Arabian and Kuwaiti production was disrupted.[5] The airline industry, which had already been navigating the twin pressures of deregulation and overcapacity, found itself confronting an acute cost crisis. Several carriers including Midway Airlines ceased operations, while Pan American World Airways, already financially weakened, entered its terminal decline.[6]

The pattern repeated itself, with greater ferocity, following Russia's full-scale invasion of Ukraine in February 2022. Brent crude surged past USD 130 per barrel in early March 2022 its highest level since 2008.[7] Simultaneously, the closure of Russian airspace which had historically provided the

[5] International Air Transport Association (IATA), 'Impact of the Gulf War on Airlines' (IATA Economic Report, 1991).
[6] US General Accounting Office, Airline Industry: Potential Mergers and Acquisitions Driven by Financial and Competitive Pressures (GAO-04-836, 2004) 15.
[7] IATA, 'Fuel Monitor' (Monthly Report, April 2022) <https://www.iata.org> accessed 13 May 2026.

shortest routing between Europe and East Asia forced airlines to reroute flights through vastly longer paths, compounding the fuel penalty substantially.[8] For carriers operating routes between Northern Europe and Japan or South Korea, the detour added up to three hours of flight time, increasing fuel burn by 25 to 40 per cent per sector.[9]

The downstream effects of such fuel cost spikes extend well beyond an immediate hit to operating margins. Airlines that had entered into forward hedging contracts typically locking in fuel prices six to eighteen months in advance found themselves in the perverse position of being contractually bound to purchase fuel at prices that bore no relationship to the spot market reality that their competitors faced. Some hedged carriers suffered greater financial damage from misaligned derivative positions than from the direct fuel cost increase itself. Singapore Airlines and Korean Air, for example, reported significant mark-to-market hedging losses in the first quarter of 2022, a phenomenon that illustrates how sophisticated financial instruments can, in extreme market conditions, amplify rather than mitigate the economic harm of geopolitical disruption.

Legally, the fuel cost crisis exposes a structural gap in aviation regulation. No international instrument obliges states or fuel suppliers to maintain aviation fuel availability at stable prices during armed conflict. The Chicago Convention's provisions on facilitation and overflight rights do not contemplate airspace denial as an economic weapon, and there is no international aviation analogue to the energy security provisions found in, for example, the Energy Charter Treaty. Airlines are left to manage fuel price risk through commercial hedging instruments that, by their nature, provide only partial and temporary relief.[10]

[8] IATA, 'Russia-Ukraine Conflict: Impact on Aviation' (IATA Economics, March 2022) <https://www.iata.org> accessed 9 May 2026.

[9] UN Conference on Trade and Development (UNCTAD), 'Impact of the War in Ukraine on Global Trade and Development' (UNCTAD 2022) 28.

[10] Michael Milde, International Air Law and ICAO (2nd edn, Eleven International Publishing 2012) 78.

B. Airline Insolvency and Financial Distress

The financial fragility of airlines is a structural condition, not a temporary aberration. Airlines operate on razor-thin net profit margins the industry average pre-pandemic was approximately 3 to 5 per cent of revenues and carry enormous fixed obligations in the form of aircraft leases, debt service, and labour contracts.[11] Armed conflicts impose simultaneous demand and supply shocks: travellers cancel or postpone journeys to affected regions while costs rise due to fuel, insurance, and rerouting. The combined effect on liquidity can be devastating and swift.

The legal framework for airline insolvency is notably fragmented. Unlike banks, which in many jurisdictions benefit from dedicated resolution regimes designed to manage systemic failure in an orderly manner, airlines are subject to ordinary corporate insolvency law. When a carrier fails, the consequences cascade: stranded passengers, disrupted cargo supply chains, unemployed workers, and in some cases the permanent loss of route access that competitors cannot quickly fill. The systemic nature of airline failure is thus analogous, in important respects, to financial sector failure, yet the legal treatment remains far less sophisticated.[12]

The vulnerability of smaller, regionally significant carriers deserves particular attention. These airlines which often serve secondary cities or niche ethnic-market routes that larger carriers will not operate commercially typically lack the balance sheet depth to absorb sustained cost increases. The failure of Ukraine International Airlines to maintain normal operations following the 2022 invasion, or the effective collapse of multiple African carriers serving routes transiting Middle Eastern conflict zones, illustrates a recurring pattern: the carriers whose failure causes the greatest relative harm to connectivity are precisely those with the least access to financial buffers or state support. Their insolvency creates route vacuums that no commercially rational successor will fill at comparable prices.

ICAO's guidance on airline insolvency is non-binding and limited in scope. Article 77 of the Chicago Convention permits the creation of joint operating organisations but does not establish any

[11] IATA, 'Airline Financial Monitor' (IATA, June 2022) <https://www.iata.org> accessed 18 May 2026.

[12] Paul Stephen Dempsey and Andrew R Goetz, Airline Deregulation and Laisser-Faire Mythology (Quorum Books 1992) 201.

framework for managing airline insolvency in ways that protect the continuity of international air services. The result as the collapse of carriers during both the post-September 11 crisis and the COVID-19 pandemic demonstrated is that aviation connectivity depends on the financial resilience of individual private entities whose failure the international legal system has no mechanism to prevent or orderly manage.[13]

C. Ticket Inflation and Consumer Harm

War-induced cost increases translate rapidly and directly into higher ticket prices. When airline capacity is reduced whether through route cancellation, fleet grounding, or carrier insolvency residual supply confronts inelastic demand from passengers who must travel regardless of price.

The result is acute ticket inflation, concentrated most heavily on routes proximate to the conflict zone or dependent on disrupted airspace.[14]

Following the closure of Russian airspace in 2022, fares on Europe-to-Japan routes increased by an average of 30 to 50 per cent compared to pre-war levels.[15] Routes to and from Ukraine, Russia, and Belarus serving substantial diaspora communities effectively collapsed, leaving passengers with no viable alternative to enormously expensive connecting itineraries. The legal consequences for affected passengers are considered in Part V below, but it is worth noting here that existing consumer protection frameworks were not designed to address ticket inflation caused by geopolitical events entirely outside the carrier's control.

There is also a dimension to this problem that tends to receive insufficient attention in the legal literature: the distributional consequences of ticket inflation. When fares spike in the wake of conflict, the burden does not fall equally across traveller demographics. Migrants and diaspora communities, who often face greater urgency to travel for family emergencies, repatriation, or legal documentation requirements and who frequently lack the flexibility to substitute discretionary travel for essential journeys, bear a disproportionate share of the price burden. These are rarely the passengers best positioned to absorb it. The absence of any legal mechanism specifically addressing

[13] ICAO, 'Assistance, Capacity Building and Training (ACT)' (ICAO Doc 10081, 2017).
[14] Alan Khee-Jin Tan, Liberalization of Air Transport Services and Passenger Rights in the Asian Context (Kluwer 2009) 167.
[15] IATA, 'War Disruptions and Aviation' (n 1) 14.

this distributional dimension of war-induced fare increases is a significant gap in the consumer protection architecture of international aviation.

D. War-Risk Insurance

Perhaps the most legally complex and underexplored dimension of war's impact on aviation economics is the role of war-risk insurance. Standard aviation hull and liability insurance policies contain war-risk exclusions; separate war-risk policies must be purchased to cover loss or damage arising from armed conflict, acts of terrorism, and related events. These policies are underwritten by a small and specialised segment of the Lloyd's of London market and are subject to cancellation on seven days' notice a feature that gives underwriters virtually instantaneous power to ground an entire airline.[16]

The post-September 11 crisis illustrated this dynamic with alarming clarity. Within days of the attacks, war-risk insurers served cancellation notices across the industry, threatening to leave airlines globally uninsured and therefore legally prohibited from flying within a week. [17] Governments in the United States, United Kingdom, Canada, and Australia stepped in as insurers of last resort, providing temporary war-risk coverage to prevent systemic grounding. The legal basis for this state intervention was constructed on emergency powers and analogies to the treatment of uninsurable risks in other sectors, rather than any pre-established aviation-specific legal framework.

The Russia-Ukraine war produced a further, novel dimension of insurance complexity: the mass stranding of leased aircraft in Russia following Western sanctions. With lessors primarily Irish and American entities unable to repossess aircraft, insurance claims ran into billions of dollars, and litigation over policy coverage is expected to continue for years.[18] The legal questions raised concerning insurable interest, policy scope, and the interaction between sanctions regimes and insurance contracts sit at the intersection of several bodies of law and have no clear resolution under existing frameworks.

[16] Brian F Havel and Gabriel S Sanchez, The Principles and Practice of International Aviation Law (Cambridge University Press 2014) 3–8.

[17] IATA, 'The Impact of September 11 2001 on Aviation' (IATA Special Report, 2002) <https://www.iata.org> accessed 15 May 2026.

[18] Lloyd's Market Association, 'Aviation War Risks: Russia Stranded Aircraft Claims' (LMA Briefing Note, March 2022) <https://www.lma.org.uk> accessed 11 May 2026.

The stranded aircraft episode merits further elaboration because it reveals a particularly stark failure of legal foresight. The operating lease model that has come to dominate commercial aviation finance under which airlines lease aircraft from specialised lessors rather than owning them outright was designed for a commercial world in which lessors could, in the last resort, repossess their assets if a lessee defaulted or if sanctions were imposed. That assumption proved catastrophically false when Russia effectively sequestrated approximately 500 leased aircraft worth an estimated USD 10 billion by simply refusing to permit their departure and subsequently passing domestic legislation purporting to transfer their registration to Russian ownership. No provision of international aviation law, aircraft registry law, or sanctions law had been designed to address this scenario, and the resulting legal vacuum has generated disputes that will burden courts and arbitral tribunals for a generation.

III. The International Legal Framework and Its Limitations

A. The Chicago Convention

The Chicago Convention of 1944 remains the foundational instrument of international aviation law. It establishes the principle of complete and exclusive sovereignty of states over their airspace, creates ICAO as the specialised United Nations agency for civil aviation, and provides a framework for the regulation of international air navigation.[19] However, the Convention was conceived primarily as a technical and operational instrument. Its framers meeting in the final year of the Second World War were largely focused on preventing the unilateral assertion of monopolistic rights over air routes, rather than on the economic consequences of future armed conflicts.[20]

Article 89 of the Chicago Convention addresses war in the narrowest possible terms, merely preserving the freedom of action of both belligerents and neutral states. It does not address the economic consequences of airspace closure, impose obligations to maintain civil aviation operations, or create any mechanism for compensating airlines adversely affected by war-related disruptions. ICAO's mandate, while broad in principle, is essentially regulatory rather than

[19] Chicago Convention (n 3) arts 1–2, 37.

[20] Ruwantissa Abeyratne, Convention on International Civil Aviation: A Commentary (Springer 2014) 213.

economic in character: it sets standards and recommended practices, not financial safety nets.[21] There is a deeper structural tension within the Chicago framework that wartime conditions expose with particular clarity. The Convention simultaneously affirms state sovereignty over airspace an essentially political concept and establishes a regime of international air navigation premised on the cooperative exercise of that sovereignty. In peacetime, this tension is managed through diplomatic convention and commercial mutual interest. States open their airspace because doing so serves their economic interests; carriers overly depend on transit rights that are granted in bilateral agreements and can, in legal terms, be withheld at any moment. When a state at war closes its airspace, it exercises a right that the Convention undeniably confers but in doing so, it inflicts substantial economic harm on third-party carriers and their passengers. The Convention provides no mechanism for addressing this externality.

B. Bilateral Air Services Agreements

The actual commercial rights to operate international air services are allocated through a network of over 4,000 bilateral air services agreements. These instruments, negotiated between pairs of states, define the routes, frequencies, capacities, and tariff arrangements applicable to the carriers of each signatory.[22] Bilateral air services agreements provide no mechanism for managing the economic consequences of armed conflict. When Russia closed its airspace in 2022, the operational rights under existing agreements between European states and Russia became effectively moot, as no European carrier could safely exercise them yet the agreements themselves remained nominally in force, creating a legal limbo.[23]

The fundamental limitation of the bilateral framework in wartime is its state-centric, bilaterally negotiated structure. Individual agreements cannot be modified quickly enough to address rapidly evolving conflict situations, and there is no multilateral mechanism analogous, for example, to the

[21] Milde (n 10) 88–92.
[22] Air Services Agreement between the Government of the United States of America and the European Community and its Member States (Open Skies Agreement) (2007) OJ L 134/4.
[23] Marek Zylicz, International Air Transport Law (Martinus Nijhoff Publishers 1992) 312.

WTO's safeguard provisions through which states can jointly manage aviation disruptions arising from armed conflict.[24]

The proliferation of so-called 'open skies' agreements most notably the US–EU Open Skies Agreement has added a further dimension of complexity. These liberalised agreements remove many of the restrictions found in traditional bilateral arrangements, but they contain no provisions addressing the suspension or modification of rights in conflict situations. The result is a regime that functions efficiently in conditions of normal commercial competition but is silent and therefore effectively useless when those conditions are upended by armed conflict.

C. The Montreal Convention and Carrier Liability

The Montreal Convention of 1999 governs the liability of air carriers for injury to passengers, damage to baggage and cargo, and delays in international carriage. [25] It modernised and consolidated the earlier Warsaw Convention system, establishing a two-tier liability regime with unlimited liability for death and personal injury within the first tier, and negligence-based defences

beyond it. However, the Convention's scope is confined to the relationship between carrier and passenger; it says nothing about the relationship between carriers and the states or markets that disrupt their operations.

Article 19 of the Montreal Convention provides that carriers are not liable for delay if they took all reasonable measures to avoid the damage a provision that courts have applied, with reasonable consistency, to excuse liability arising from extraordinary events including armed conflict, severe weather, and government-imposed restrictions.[26] This has significant implications for consumer rights, which are discussed in Part V. The key legal gap is not within the Montreal Convention's own terms its force majeure provisions are broadly workable but rather the absence of any positive obligation on states or carriers to provide alternative remedies when the Convention's liability provisions are disapplied.

[24] Zylicz, supra note 23, at 301.

[25] Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention), opened for signature 28 May 1999, 2242 UNTS 309 (entered into force 4 November 2003).

[26] Bin Cheng, The Law of International Air Transport (Stevens & Sons 1962) 342.

IV. Government Financial Interventions and International Competition Law

A. The Case for State Support

When airlines face financial collapse due to war-induced disruption, the case for government intervention rests on several legal and economic foundations. First, aviation connectivity is characterised in many jurisdictions as a service of general economic interest that cannot be allowed to fail without severe consequences for the broader economy.[27] Second, airline failure in a crisis may not reflect any management failure or competitive weakness; it may be attributable entirely to exogenous geopolitical forces for which the carrier bears no responsibility. Third, the systemic nature of aviation its interconnection with tourism, trade, and logistics means that the social cost of allowing carriers to fail may substantially exceed the fiscal cost of preventing it.

These arguments were accepted, in practice if not always in legal articulation, by governments following September 11 and during the COVID-19 pandemic. The United States Congress enacted the Air Transportation Safety and System Stabilization Act within two weeks of the September 11 attacks, providing USD 5 billion in direct grants and USD 10 billion in loan guarantees to American carriers.[28] The Congressional Budget Office subsequently estimated that these measures prevented the failure of several major carriers and preserved connectivity to hundreds of communities across the country.[29]

During the COVID-19 pandemic, European Union member states provided over EUR 30 billion in state aid to national carriers, including EUR 7 billion to Air France and EUR 9 billion to Lufthansa.[30] The European Commission approved these measures under the Temporary Framework it adopted

[27] Kenneth Button, Wings Across Europe: Towards an Efficient European Air Transport System (Ashgate 2004) 133.

[28] Air Transportation Safety and System Stabilization Act, Pub L No 107-42, 115 Stat 230 (2001).

[29] Congressional Budget Office, 'Estimating the Impact of Federal Aid to Airlines After September 11' (CBO Report, 2002) <https://www.cbo.gov> accessed 7 May 2026.

[30] European Commission, 'State Aid: Commission Approves Support Measures for Airlines Affected by COVID-19 Crisis' Press Release IP/20/720 (9 April 2020).

in March 2020, relying on Article 107(3)(b) of the Treaty on the Functioning of the European Union, which permits state aid 'to remedy a serious disturbance in the economy of a Member State.'[31]

It is worth pausing to examine the normative foundations of state intervention more carefully, because the analogy between pandemic and wartime support conceals important differences. During the COVID-19 pandemic, all carriers were harmed by the same external shock a global public health emergency and the competitive distortions created by state support, while real, operated against a backdrop of universal demand suppression. In wartime, the pattern is typically more uneven. Some carriers are directly harmed those with routes through affected airspace, significant exposure to the conflict region, or high fuel hedging losses while others benefit from reduced competition and redirected passenger flows. State support in this context carries a greater risk of entrenching competitive advantages that would not survive in a genuinely free market, and international competition law norms are correspondingly more difficult to satisfy.

B. WTO Constraints on Aviation Subsidies

The consistency of aviation subsidies with international trade law is a matter of genuine legal controversy. The WTO's Agreement on Subsidies and Countervailing Measures prohibits or disciplines certain categories of government financial assistance that distort competition in international trade. [32] However, the application of these disciplines to aviation services is complicated by the Annex on Air Transport Services to the GATS, which explicitly excludes from

GATS coverage 'traffic rights' and 'services directly related to the exercise of traffic rights.'[33] This creates a legal lacuna: it remains uncertain whether government financial support to airlines falls within this exclusion or remains subject to full subsidy disciplines.

The landmark Airbus-Boeing dispute addressed state support to aircraft manufacturers rather than airlines, but its analysis is instructive. The Appellate Body's finding that launch aid from EU member states constituted actionable subsidies under the SCM Agreement demonstrates that aviation-related government support is not inherently exempt from WTO disciplines, even in a

[31] European Commission, 'Temporary Framework for State Aid Measures to Support the Economy in the Current COVID-19 Outbreak' [2020] OJ C 91I/1.

[32] Agreement on Subsidies and Countervailing Measures (SCM Agreement) (15 April 1994) 1869 UNTS 14. [33]General Agreement on Trade in Services (GATS) (15 April 1994) 1869 UNTS 183, Annex on Air Transport Services.

sector with strong public interest characteristics.[33] The more pressing practical question is whether emergency wartime subsidies to airlines could be successfully challenged. It is at least arguable that subsidies provided in direct response to war-induced disruption time-limited, nondiscriminatory between competing domestic carriers, and proportionate to the demonstrated harm would survive WTO scrutiny under the national security exception. However, the absence of clear jurisprudence leaves states in a state of legal uncertainty.[34]

C. EU State Aid Rules: A Case Study in Complexity

The European Union's state aid regime provides the most developed legal framework for analysing the consistency of aviation subsidies with competition law. Article 107(1) TFEU establishes a general prohibition on state aid that distorts or threatens to distort competition in the internal market.[35] Articles 107(2) and 107(3) provide a series of exemptions, including most relevantly Article 107(3)(b), which the Commission invoked during both the COVID-19 pandemic and earlier crises. The Court of Justice has interpreted these exemptions in a manner that requires the aid to be both necessary and proportionate conditions that are readily satisfiable in acute wartime scenarios but require case-by-case assessment.[36]

The Commission's practice in approving the Air France support package in 2020 is instructive.

The Commission imposed conditions restricting dividends, executive remuneration, and expansion into airports served by competitors.[37] These conditions were designed to limit competitive distortion while preserving the carrier's viability. For war-specific crises, the legal analysis would likely proceed through Article 107(2)(b), which automatically exempts aid to make good damage caused by 'exceptional occurrences.' Armed conflict affecting the economic operations of EU

[33] Appellate Body Report, European Communities and Certain Member States — Measures Affecting Trade in Large Civil Aircraft, WTO Doc WT/DS316/AB/R (adopted 1 June 2011).

[34] Appellate Body Report, United States — Subsidies on Upland Cotton, WTO Doc WT/DS267/AB/R (adopted 21 March 2005) para 654.

[35] Treaty on the Functioning of the European Union [2012] OJ C 326/47, art 107(3)(b).

[36] Case C-364/90 Italy v Commission [1993] ECR I-2097, para 20.

[37] European Commission, Decision SA.56812 (2020/N) — France — Aid for Air France in the Context of the COVID19 Pandemic [2020] OJ C 188/1.

carriers would appear to satisfy this standard, though the Commission has not provided definitive guidance on the scope of this provision in the aviation context.[38]

One dimension of the EU framework that has not received sufficient scholarly attention is the asymmetry in the procedural position of larger and smaller member states. Carriers based in economically dominant member states can typically access state support more rapidly, and in greater quantum, than their counterparts in smaller economies partly because larger states have greater fiscal capacity, and partly because their carriers' systemic importance makes Commission approval more politically predictable. This asymmetry means that the EU's nominally uniform state aid framework produces structurally unequal outcomes in practice, with carriers from peripheral member states facing both greater commercial vulnerability during wartime crises and less access to the financial support that might enable them to survive.

V. War-Driven Inflation and Aviation Consumer Rights

A. The Regulatory Framework for Passenger Rights

Consumer protection in aviation is governed by a patchwork of international, regional, and national instruments. At the international level, the Montreal Convention establishes minimum standards for carrier liability in cases of delay, cancellation, and lost baggage.[39] At the regional level, EU Regulation 261/2004 provides more robust protections, including rights to financial compensation for long delays and cancellations caused by the carrier.[40] Similar regimes exist in Canada, Brazil,

and a growing number of other jurisdictions, though with varying scope and critically varying effectiveness of enforcement.

[38] OECD, 'Competition Issues in the Airline Sector' (OECD Policy Roundtable, 2014) <https://www.oecd.org> accessed 14 May 2026.

[39] Montreal Convention (n 25) arts 17–19.

[40] Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 Establishing Common Rules on Compensation and Assistance to Passengers [2004] OJ L 46/1.

The structural challenge in the consumer protection context is that aviation passenger rights frameworks were designed with a fairly specific set of problems in mind: airlines overbooking flights, mechanical failures causing preventable delays, baggage handlers losing luggage. These frameworks reflect the bargaining inequality between individual consumers and large commercial airlines. They were not designed to address situations where the harm to passengers arises not from carrier conduct but from exogenous geopolitical events that place carriers in the position of being simultaneously victims of the disruption and the entities from whom passengers seek recourse. The result is a legal architecture that leaves consumers largely unprotected precisely in the circumstances mass route cancellations, unavailable alternatives, extreme price spikes where protection would be most valuable.

B. Force Majeure and Extraordinary Circumstances

The legal crux of consumer rights in the wartime context is the extent to which carriers can invoke force majeure or 'extraordinary circumstances' to escape liability for cancellations and delays. Regulation 261/2004 explicitly exempts carriers from compensation obligations where a cancellation or significant delay is caused by 'extraordinary circumstances which could not have been avoided even if all reasonable measures had been taken.'[41] The provision was included to prevent the regime from becoming economically ruinous in cases of genuine external catastrophe a purpose that is entirely legitimate but which, in practice, has been used by some carriers to avoid legitimate claims.

The Court of Justice of the European Union has interpreted this exception with some care. In the leading case of *Sturgeon v Condor Flugdienst*,[42] the Court held that technical problems do not per se constitute extraordinary circumstances, thereby narrowing the scope of the exclusion in a manner protective of consumer interests. Subsequent case law has accepted that genuine security threats, air traffic control strikes, and volcanic ash clouds may qualify and it is almost certain that armed conflict and consequent airspace closures would also satisfy the test. The more difficult

[41] ibid art 5(3).

[42] Case C-402/07 Sturgeon v Condor Flugdienst GmbH [2009] ECR I-10923.

question is whether the purely economic consequences of war ticket price inflation, route withdrawal, reduced frequency give rise to any consumer rights at all under existing frameworks.

C. Price Gouging and the Limits of Existing Law

One of the most persistent consumer complaints during wartime aviation disruption is the exploitation of emergency conditions to charge prices bearing no reasonable relationship to underlying costs. While competition law in principle prohibits excessive pricing by dominant undertakings, the application of this doctrine to airlines in crisis conditions has been sporadic and inconsistent.[43]

Existing legal frameworks do not directly address war-induced ticket inflation as a consumer protection matter. Regulation 261/2004 concerns cancellations and delays, not pricing. The Montreal Convention addresses liability for harm caused during carriage, not market pricing prior to departure. National consumer protection laws may provide some recourse against clearly abusive pricing, but enforcement in a rapidly moving market is invariably slow and results only in prospective remedies cold comfort for passengers who have already been compelled to pay inflated prices.[44] There is a compelling argument that a dedicated legal instrument should oblige member states to activate price transparency monitoring and, where necessary, emergency tariff oversight during periods of war-induced supply disruption in aviation markets.

The evidence from recent conflicts suggests that regulatory inaction in the face of wartime price spikes is not merely an economic inconvenience but carries significant human costs. Families separated by conflict, migrant workers stranded by insolvency, and refugees unable to afford emergency travel represent the human face of a legal failure that aggregate statistics tend to obscure. Any serious reform of the consumer rights framework must engage with these realities rather than confining itself to technical adjustments to compensation thresholds or liability caps.

[43] Peter Forsyth and others, Aviation and the Environment: Lessons for Policy (Edward Elgar 2019) 87.

[44] Dempsey and Goetz (n 12) 215.

VI. Comparative Legal Analysis

A. The United States: Crisis-Driven Legislation

The United States has historically responded to aviation crises through direct legislative intervention rather than pre-established legal frameworks. The Air Transportation Safety and System Stabilization Act of 2001 is the paradigmatic example: enacted within days of the September 11 attacks, it provided immediate financial relief while creating a compensation fund for victims and establishing temporary federal war-risk insurance.[45] The speed and scale of this response reflected both the strategic importance of aviation to the American economy and the political salience of the crisis but it was legislative improvisation, not the application of a standing legal framework.[46]

The American approach is characterised by sector-specific, crisis-driven legislation, backed by the Federal Aviation Administration's broad regulatory mandate and the essential air services programme that subsidises connectivity to rural communities. This approach is flexible and politically responsive, but it provides no ex ante certainty to carriers, creditors, or consumers about what support will be available in a future crisis. The legal infrastructure for aviation resilience is constructed after the fact, not before it.[47]

There is something to be said for this approach. The speed with which Congress acted after September 11 passing major legislation in days rather than months demonstrates that democratic institutions can move with genuine urgency when the perceived stakes are high enough. But the approach also carries significant risks. Emergency legislation enacted in the immediate aftermath of a crisis is rarely subjected to the deliberate analytical scrutiny that well-designed law requires. Provisions that seem reasonable in the acute phase of a crisis may prove poorly calibrated once the immediate emergency has passed, and the political capital required to revise them is rarely available.

[45] Air Transportation Safety and System Stabilization Act (n 28) ss 101–103.

[46] Paul Stephen Dempsey, 'Aviation Security, the Role of Law in the War against Terrorism' (2003) 72 Journal of Air Law and Commerce 675, 679.

[47] US Department of Transportation, 'Essential Air Service Program' <https://www.transportation.gov> accessed 19 May 2026.

The Aviation and Transportation Security Act of 2001, enacted as part of the same legislative package, created the Transportation Security Administration in a form that critics argued was overly rigid and insufficiently risk-based a structural problem that persisted for years precisely because the political conditions that might have enabled correction never re-emerged.

B. The European Union: Sophisticated Frameworks, Reactive Deployment

The European Union represents the most legally sophisticated regional framework for aviation, combining a single aviation market under Regulation 1008/2008[48] with a comprehensive state aid control regime and robust passenger rights protections under Regulation 261/2004. The EU's response to the COVID-19 crisis demonstrated both the strengths and limitations of this framework. The Temporary Framework for State Aid provided a coherent legal basis for emergency interventions, but it was adopted reactively rather than on the basis of pre-existing crisis protocols.[48]

The EU's response to the Russia-Ukraine war has been more fragmented still. Individual member states provided varying levels of support to their carriers without a coordinated EU-level framework. The Commission has not adopted a framework analogous to the COVID-19 Temporary Framework specifically addressing war-induced aviation disruption. This reflects a broader gap in EU aviation policy: the single market architecture is impressively developed, but the crisis management infrastructure remains underdeveloped relative to the sophistication of the substantive rules.[51]

The contrast between the EU's swift and comprehensive response to the pandemic and its more hesitant response to the Russia-Ukraine aviation crisis is revealing. In the pandemic, all member states were equally affected and all carriers faced the same commercial collapse; the political conditions for a coordinated EU-level response were therefore favourable. In the Russia-Ukraine context, the distribution of harm has been unequal carriers from Finland, the Baltic states, and Poland have been far more severely affected by the loss of Siberian overflight rights than their counterparts based in Western Europe and the political conditions for a comprehensive coordinated

[48] Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on Common Rules for the Operation of Air Services in the Community [2008] OJ L 293/3. [48] European Commission, 'Temporary Framework' (n 31) paras 2–3. [51]Mendes de Leon (n 4) 312–314.

response have been correspondingly more difficult to achieve. The lesson for legal design is that frameworks for crisis response should be built when conditions are calm and political alignment is achievable, not when the crisis has already distributed its burdens unevenly and created competing national interests.

C. Emerging Economies: Asymmetric Vulnerability

The impact of war on aviation economics is felt acutely but asymmetrically across the global economy. Airlines from emerging economies typically operating with thinner margins, less access to capital markets, and greater exposure to fuel price volatility are often the first to fail and the last to receive state support during crises. [49] ICAO's technical assistance and capacity building programmes address operational safety and regulatory capability but provide no economic safety net for carriers from developing states that may lack the fiscal capacity to provide domestic support even where the legal authority to do so exists.[50]

The absence of a multilateral financial mechanism for aviation comparable, perhaps, to the IMF's emergency lending facilities for sovereign states means that carriers from the Global South face a structurally unequal playing field in wartime. This inequality has implications not only for economic efficiency but for the equitable distribution of connectivity, which the international community has increasingly recognised as a development imperative. Developing world carriers and the communities they serve remain, in effect, the collateral damage of a legal system designed by and for the aviation industries of the developed world.[51]

This structural inequality has been observed across multiple conflict episodes but has attracted surprisingly little sustained academic attention in the aviation law literature. The destruction of

Ethiopian Airlines' regional network during the Tigray conflict, the impact of the Yemen war on Yemenia's operations, and the near-total collapse of Libyan aviation following the civil war that erupted in 2011 each illustrate the particular vulnerability of carriers operating in fragile state environments. These airlines typically lack the hedging tools, capital market access, and political

[49] International Monetary Fund, 'World Economic Outlook: War Sets Back the Global Recovery' (IMF April 2022) <https://www.imf.org> accessed 2 May 2026.
[50] ICAO, 'Assistance, Capacity Building and Training (ACT)' (n 13) paras 4.1–4.3.
[51] Abeyratne (n 20) 299.

leverage that enable developed-world carriers to seek and obtain government support. Their failure is treated as a footnote to the more comprehensively documented experience of larger carriers, yet their collapse often represents a more severe and longer-lasting harm to the communities they serve.

VII. Conclusion and Proposals for Reform

The foregoing analysis reveals that the existing legal framework governing the intersection of war and aviation economics suffers from three fundamental deficiencies: fragmentation, reactivity, and structural inadequacy. Fragmentation: the relevant law is dispersed across international, regional, and national instruments that were not designed to function as a coherent system in wartime. Reactivity: responses to crisis whether state aid, emergency insurance, or consumer protection waivers are typically improvised after the event, creating legal uncertainty and economic delay that compounds the harm already being suffered. Structural inadequacy: the frameworks consistently address the rights and obligations of states, carriers, and passengers as individual actors, but provide no mechanism for managing systemic disruption at the market level.[52] These deficiencies are not merely technical. They reflect a deeper failure of legal imagination a tendency to construct aviation law around the comfortable assumptions of a peacetime commercial order, and to treat the disruptions of war as exceptional events that fall outside the scope of ordinary legal planning. This article has argued that this approach is both analytically incorrect and practically harmful. War is not an exceptional disruption to the international aviation order; it is a recurring feature of the geopolitical environment within which that order must operate. The legal framework should be designed accordingly.

This article advocates for reform in three specific areas. First, ICAO should initiate negotiations toward a multilateral Convention on Aviation Economic Emergency Management an instrument that would establish clear obligations of state conduct and international cooperation in aviation crises, including minimum transparency requirements for airspace closure decisions, procedures for coordinated state financial support, and baseline consumer protection standards applicable in

[52] Havel and Sanchez (n 16) 291–295. [53]
Milde (n 10) 201.

wartime. Such a convention need not prescribe a single model but should establish a coordinating framework within which national and regional responses operate coherently.[53]

Second, the WTO membership should clarify the interaction between the SCM Agreement and aviation subsidies, ideally through a ministerial decision or interpretative understanding that confirms the availability of the national security exception for emergency wartime aviation support subject to defined conditions of proportionality, non-discrimination, and time limitation. This

would reduce the legal uncertainty that currently inhibits timely government intervention at precisely the moment when speed is most critical.[53]

Third, the European Union and other regional bodies should adopt standing emergency frameworks for aviation that can be activated by political decision rather than requiring fresh legal construction in each crisis. Such frameworks should include clear eligibility criteria, proportionality requirements, and enhanced passenger rights provisions calibrated specifically to the wartime context including provisions addressing ticket price transparency and the availability of alternative routing when primary routes collapse.[55]

Beyond these three specific proposals, there is a broader agenda of legal reform that deserves attention. The insurance market structure that currently governs war-risk coverage and in particular the seven-day cancellation provision that gives underwriters near-instantaneous power to ground the global industry should be subject to international review. It is anomalous that a small group of private market participants in a single city can, in effect, determine whether the global civil aviation network continues to operate in a crisis. States have accepted this state of affairs for decades not because it is optimal but because they have not seriously grappled with the alternatives. A multilateral reinsurance pool, modelled perhaps on the nuclear liability regime under the Paris Convention, deserves examination as one possible approach.

The developing world dimension of this problem also demands more sustained attention than it has historically received. A legal framework that protects the aviation connectivity of wealthy regions while leaving the carriers of the Global South to fail in silence is not merely economically inefficient; it is normatively unjustifiable in a system that purports to treat connectivity as a global

[53] SCM Agreement (n 32) art XXI. [55] OECD (n 39) 24–26.

public good. ICAO's existing technical assistance mandate should be broadened to include economic resilience support, and consideration should be given to the creation of a dedicated multilateral financing mechanism perhaps administered through ICAO in partnership with the IMF and regional development banks specifically targeting carriers from developing states facing warinduced financial distress.

The aviation sector is too important to global connectivity, commerce, and human mobility to remain legally unprotected against the economic consequences of war. The architecture of

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international aviation law has evolved impressively over eight decades, but it has not kept pace with the realities of a world in which armed conflict remains a recurring and economically destructive feature of the international order. The task for international lawyers, policymakers, and regulatory institutions is to build the legal infrastructure for aviation resilience before the next crisis erupts not, as has too consistently been the pattern, in the aftermath of catastrophe.

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