

**International
Comparative
Legal Guides**



Practical cross-border insights into aviation law

Aviation Law
2023

11th Edition

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1 General

1.1 Please list and briefly describe the principal legislation and regulatory bodies which apply to and/or regulate aviation in your jurisdiction.

The legal framework for air transport in Cyprus is governed by EU legislation and international conventions and agreements on air transport and the Civil Aviation Law No. 213(I)/2002 (the Civil Aviation Law).

The competent authority on aviation matters is the Department of Civil Aviation (DCA), which is responsible, *inter alia*, for the supervision and operation of the country's airports, the development of air links between Cyprus and other countries, the provision and regulation of air traffic services, the development, design and supervision of the aviation security system, and the issuance and update of licences to Cypriot or foreign air carriers. Safety and security regulation and the implementation of Community legislation on air transport, including EU restrictive measures, are also among the DCA's main activities. The DCA also remains in continuous coordination with other governmental departments, bodies as well as international organisations to which Cyprus is a member.

1.2 What are the steps which air carriers need to take in order to obtain an operating licence?

According to Regulation (EC) No. 1008/2008, the air operator is required to obtain an operating licence and an air operator certificate (AOC). The licensing of air carriers falls under the responsibility of the Air Transport Licensing Authority (ATLA). An air carrier is licensed after securing an AOC from the DCA, which certifies that the air carrier has the professional capacity and organisation to ensure the safe operation of aircraft for the aviation activities mentioned in it. The conditions and procedure for issuing, suspending and withdrawing an AOC are defined in the JCAA (Joint Civil Aviation Authorities) Regulations, which are in force in the Republic.

Once the AOC has been issued, the applicant must also acquire an operating licence, which allows the air carrier to provide air transport services as specified in it. Section 113 of the Civil Aviation Law provides that the operating licence is issued, suspended and revoked in accordance with the provisions of Regulation (EEC) No. 2407/92.

The air carrier's operating licence may be suspended or revoked if the operator commits serious or repeated breaches of its obligations under the Civil Aviation Law or EU Law.

1.3 What are the principal pieces of legislation in your jurisdiction which govern air safety, and who administers air safety?

Under Sections 23 and 28 of the Civil Aviation Law, only persons who have successfully completed initial and periodic recurrent training may be employed as cabin crew members of an aircraft carrying passengers. Such training shall be provided by the aircraft operator after approval by the DCA and necessarily includes flight safety and first aid tasks. For flight crew and aircraft maintenance engineers' licensing, the owner must contact the Licensing Section of the DCA's Safety Regulation Unit. All procedures regarding pilots' licensing and approved training organisations' approval are in accordance with Regulation (EC) No. 1178/2011. The applicable registration and certification fees are specified in Civil Aviation Fees Regulations No. 458/2004. Organisations involved in the training of such personnel (ATOs) shall be approved in accordance with the above Regulation. ATOs are issued with an approval certificate displayed at their offices, detailing the approved courses, which may include flight training for both the pilot and commercial pilot qualifications. Chapters 5 and 6 of the Civil Aviation Law include detailed provisions for the aircraft crew licences and training requirements.

As regards aircraft maintenance engineers' licensing, the applicable procedures and required qualifications are in accordance with Commission Regulation (EC) No. 1321/2014. AIC C009/15 (Aviation Circular) contains the policy details followed by the DCA.

Furthermore, an aircraft may operate only if it is equipped with a valid certificate of airworthiness issued, extended, renewed, validated or recognised under the civil aviation law of the country in which that aircraft is registered and complies with the conditions under which the certificate of airworthiness was issued. The certificate of airworthiness is governed by Section 16 of the Civil Aviation Law and the EASA (European Union Aviation Safety Agency) Regulations. The aircraft owner must contact the Airworthiness Section of the DCA. An airworthiness inspector will be assigned, who will be in charge of the certification process.

Everyone involved with aviation in any capacity, including owners and operators, has a duty to report incidents and occurrences that could affect flight safety. The DCA operates a system for collecting occurrence reports in accordance with Civil Aviation (Incident Reporting) Regulation No. 334/2005. To that end, the Aircraft Accident and Incident Investigation Board (AAIIB) has been appointed as the appropriate official authority for the evaluation and analysis of the incidents that are mentioned in the Regulation and recommends the implementation of any preventive actions it considers necessary to be taken promptly to enhance aviation safety. It operates under Annex 13 to the Chicago

Convention, EU Regulation No. 996/2010 and the Cyprus Aircraft Accident and Incident Investigation Law No. 73(I)/2015. The AAIB, as the official investigation body, is obliged by the Regulation to publish a safety review annually in order to inform the public of the general aviation safety level at national level.

1.4 Is air safety regulated separately for commercial, cargo and private carriers?

Air safety is regulated uniformly. The safety legal requirements are contained in EU Law and the ICAO standards. The primary national legislation is the Civil Aviation Law of 2002 and subsidiary legislation hereunder. Under the Law Ratifying the Chicago Convention (213/1988), the SARPs issued by ICAO are adopted and applied. The EASA Basic Regulation of the EU establishes the safety requirements, as well as the Single European Sky package of EU regulations and implementing rules. The DCA is the competent authority to plan and monitor safety for all types of aircraft. It is responsible for flight operations, airworthiness and personnel licensing, ATM and ATCO licensing, air transport and aerodromes, and air traffic management.

1.5 Are air charters regulated separately for commercial, cargo and private carriers?

Air charterers are regulated uniformly for commercial, cargo and private carriers. The provisions of the law are applied to all three.

1.6 As regards international air carriers operating in your jurisdiction, are there any particular limitations to be aware of, in particular when compared with 'domestic' or local operators? By way of example only, restrictions and taxes which apply to international but not domestic carriers.

Due to the small size of the island, most activity is international and the legislation and practice is applied uniformly.

1.7 Are airports state or privately owned?

The two airports in Nicosia and Paphos were constructed on BOT (Build Operate Transfer) terms. They are run privately but controlled by the state as far as safety and security is concerned. The management of the airports was awarded by an agreement (dated 12 May 2006) for 25 years to Hermes Airports. The DCA exercised a supervisory role concerning security and licensing/certification. Two private consortia undertook ground handling. Slot allocation is governed by EU Regulation No. 95/93 and EU Regulation No. 793/2004, as amended, and the IATA Worldwide Slot Guidelines. The Government has appointed a Schedules Facilitator.

1.8 Do the airports impose requirements on carriers flying to and from the airports in your jurisdiction?

See question 1.7 above.

1.9 What legislative and/or regulatory regime applies to air accidents? For example, are there any particular rules, regulations, systems and procedures in place which need to be adhered to?

Everyone involved with aviation in any capacity, including

owners and operators, has a duty to report incidents and occurrences that could affect flight safety. The DCA operates a system for collecting occurrence reports in accordance with Civil Aviation (Incident Reporting) Regulation No. 334/2005. To that end, the AAIB has been appointed as the appropriate official authority for the evaluation and analysis of the incidents that are mentioned in the Regulation, and recommends the implementation of any preventive actions it considers necessary to be taken promptly to enhance aviation safety. It operates under Annex 13 to the Chicago Convention, EU Regulation No. 996/2010 and the Cyprus Aircraft Accident and Incident Investigation Law No. 73(I)/2015. The AAIB, as the official investigation body, is obliged by the Regulation to publish a safety review annually in order to inform the public of the general aviation safety level at national level.

1.10 Have there been any recent cases of note or other notable developments in your jurisdiction involving air operators and/or airports?

The most important case is the Helios Airways Crash of 14 August 2005, which occurred at Grammaticos, Attica, Greece, and involved Flight 522 (a Boeing 737-31S), causing the death of 119 passengers and crew.

In response to the COVID-19 outbreak around the beginning of 2020, the Minister of Transport issued several Orders, under the Civil Aviation Law, imposing flight restrictions in the name of protecting public health and the national health system. Hence, Cyprus has introduced a colour-coded country categorisation based on each country's epidemiological data, setting the prerequisites for entering the country. Regardless of the category, all passengers are obliged to acquire the said "Cyprus Flight Pass".

Inevitably, in the wake of the COVID-19 pandemic, the survivability of the nation's airlines has been severely impacted. In parallel, the demise of state-owned Cyprus Airways and the closure of other Cypriot firms, such as Cobalt Air, has revived the debate of Cyprus' air connectivity with the rest of the world. In the meantime, an application to the DCA for the establishment of a new Cypriot airline company is pending, aiming to fill the "travel gap" left by Cyprus Airways. Importantly, in June 2020, the European Commission approved a €6.3 million Cypriot incentive scheme to support airlines affected by the COVID-19 pandemic, in a comprehensive and non-discriminatory manner.

It is also notable that the Cyprus Parliament passed the new Law on the Provision of Aeronautical Services (Law No. 114(I)/2019), which provides that a state-owned company, instead of the DCA, is now in charge of air traffic management and the provision of aeronautical services. Such a company, which exists in most EU countries in collaboration with Eurocontrol, is expected to provide more flexibility in managing air traffic today, while increasing the state's revenues and reducing flight delays. The said state-owned air navigation company is expected to be fully operational in 2021.

1.11 Are there any specifically environment-related obligations or risks for aircraft owners, airlines, financiers, or airports in your jurisdiction, and to what extent is your jurisdiction a participant in (a) the EU Emissions Trading System (EU ETS) or a national equivalent, and (b) ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA)?

Chapter 24 of the Civil Aviation Law makes provision as to the protection of the environment. In particular, Section 190 imposes an obligation upon airport operators, aircraft owners

and captains to avoid and reduce environmental pollution caused by the emission of noises, vibrations and gases.

Various other provisions of the Civil Aviation Law also have environmental provisions, such as Sections 11, 18, 33, 35, 36, 41, 45, 79, 91, 105, 106, 107, 135 and 136.

They are intended to reduce noise, vibrations and gases.

The Evaluation and Management of Environmental Noise Law No. 224 (I)/2004 requires, *inter alia*, the determination of exposure to noise emitted by means of air traffic through noise mapping.

2 Aircraft Trading, Finance and Leasing

2.1 Does registration of ownership in the aircraft register constitute proof of ownership?

It does, but this is not conclusive. The Cyprus Aircraft Register is mainly but not exclusively an owner-register as defined by the law. The provisions for the registration of an aircraft can be found in the Civil Aviation Law of 2002 (213(I)/2002) as amended by laws to date (the latest being 108(I)/2019). The law incorporates all the EU Laws, directives and regulations in the field as described in the preamble of the law. Particulars are given therein.

Chapter 3, Sections 9–15 of the Law provides for the registration of aircraft. The Cyprus Register is under the supervision of the Minister of Communication and Works and the Registration Authority is the Cyprus Aircraft Register. In the Register, other than the registration, transfer or deletion of aircraft, all charges *in rem* and any changes are recorded and relevant certificates are issued.

Section 11 provides for the registration, Section 13 for the deletion and Section 15 for the acquisition of Cyprus nationality of registered aircraft. The basic requirements and conditions for Cyprus registration include:

- a) that the aircraft is not registered in a foreign register;
- b) relevant environmental and airworthiness certificates; and
- c) the owner or purchaser or lessee under a financial lease, which must be of at least of six months duration, or other similar beneficiary owner has more than a 50% stake and is a (a) physical person of Cypriot nationality or an EU national or of a state belonging to the European Common Aviation Area irrespective of domicile or residence in Cyprus, or (b) legal person registered under the laws of the Republic of Cyprus or the Laws of any Member State of the European Union or a state belonging to the European Common Aviation Area and has its registered office or main establishment in Cyprus or in any other Member State of the European Union or a member of the European Common Aviation Area and in which more than 50% of its capital or assets belongs to nationals of the above and its representatives or persons personally liable are by majority Cypriot nationals or nationals of any of the above. In the case where the aircraft has its usual seat and area of operation abroad and its owner or charterer has no place of residence or its seat of operations in the Republic of Cyprus, the Minister has the power to reject the application for registration and/or order its striking out if he deems that in the circumstances the aircraft should have been registered in another state. The Minister retains the discretion to allow registration by way of exemption to the Cyprus Register where the conditions above are not in general fully met. Aircraft registered in foreign registers can be transferred to the Cyprus Register subject to the fulfilment of the above conditions.

As of 31 December 2019, a total of 118 aircraft were registered in Cyprus including two Airbus A319s and seven Fokker 218s. The rest relate to light aircraft (60), helicopters (15) and ultra-light aircraft (31).

2.2 Is there a register of aircraft mortgages and charges? Broadly speaking, what are the rules around the operation of this register?

All charges *in rem* on an aircraft must be registered in the Cyprus Aircraft Register, and the relevant certificate is issued upon payment of the relevant fees. The relevant documentation has must be filed with the Cyprus Aircraft Register and fees are paid for the purposes of registration.

The law does not provide specifically what the effect of registration is. Nevertheless, under general principles of law applicable, for example, in relation to immovable property under Cap 224, registration usually constitutes *prima facie* evidence of the truth of the matters stated in the certificate of registration and of the Register. In case of dispute, the appropriate District Court will decide on issues of ownership, the status of the lessor under the lease and the security documents. The registration of charges and the issue of the relevant certificate does not, under the law, accord any priority in line with the date of registration, and this will be determined under the general principles of common law and equity applicable in Cyprus.

2.3 Are there any particular regulatory requirements which a lessor or a financier needs to be aware of as regards aircraft operation?

All types of aircraft leases are recognised under Cyprus Law. This includes the main types of leasing, i.e. Wet-Leasing (short-term leasing) and Dry-Leasing (for longer-term leases), or a combination of both.

Aircraft leases are usually drawn up in the English language or in Greek. There are no legal prerequisites specifically for aircraft leases as to translation, notarisation, apostille, legalisation, etc. Nevertheless the P.I.O. (Public Information Office) provides translation services of documents in English or Greek. For registration purposes, documents will need to be translated into at least English or Greek. The Cyprus Courts accept documents in English as evidence. Stamp duties may be applicable for Cyprus contracts, and the usual terms relating to leases under Cap 149 of the Contract Law or the Sales of Goods Law are applicable. It is customary for the lease to be signed by the parties involved, i.e. the lessor and the lessee, and the usual terms are incorporated therein relating to the term, rental, taxes, delivery, operations, maintenance, insurances, limitation liability, risk, terminations, representations, title, re-delivery, events of defaults, assignment, notices, governing law and jurisdiction. Usually, leases are witnessed by two witnesses, and it is preferable that all signatures be certified by a Certifying Officer whose signature is apostilled. It is also preferable for the documentation to be in English with official Greek translations.

There are no other formalities required to perfect a lessors' rights but, as detailed above, in the Cyprus Register, under Section 11 of the Civil Aviation Law, it is possible to register an aircraft with the Cyprus flag on behalf of the lessee provided the above conditions are met relating to registration.

2.4 As a matter of local law, is there any concept of title annexation, whereby ownership or security interests in a single engine are at risk of automatic transfer or other prejudice when installed 'on-wing' on an aircraft owned by another party? If so, what are the conditions to such title annexation and can owners and financiers of engines take pre-emptive steps to mitigate the risks?

Ownership rights relating to engines can be recognised separately from the ownership of the rest of the aircraft depending

on the terms agreed between the parties involved. There are no requirements for separate registration filing or additional formalities to perfect lessors' interest in the engine. No specific provision is made in the law for that matter and the usual contractual provisions relating to contracts and or sale of goods and/or provision of services are applicable in the circumstances.

2.5 What (if any) are the tax implications in your jurisdiction for aircraft trading as regards a) value-added tax (VAT) and/or goods and services tax (GST), and b) documentary taxes such as stamp duty; and (to the extent applicable) do exemptions exist as regards non-domestic purchasers and sellers of aircraft and/or particular aircraft types or operations?

Lease rentals are subject to tax – either corporation or personal tax. The basic corporation tax is 12.5%. Usually, legal and physical persons with their ordinary residence in Cyprus are subject to taxation. It is advisable to incorporate in order to minimise taxation as personal tax is much higher, reaching up to 35% on net income of €60,000 and above. For companies that are resident outside Cyprus but have aircraft business in Cyprus, Section 18 of the ITL (Income Tax Law) makes a provision for exemption from taxation in certain cases and under certain conditions.

A special provision is available for the setting up of International Trusts where the settlor beneficiaries reside abroad at the time or one year before the setting up of an International Trust under the International Trusts Law 1992. Ownership is with the Cyprus Trustee, who can be a corporation, and the beneficial owners may reside abroad. If the income is deemed to be outside Cyprus, it will not be taxable in Cyprus but at source. A number of bilateral tax treaties minimise double taxation. See also question 2.8 below.

2.6 Is your jurisdiction a signatory to the main international Conventions (Montreal, Geneva and Cape Town)?

- i) **International carriage:** The key treaties on international air carriage that Cyprus has embodied are set out below:
- a) The Convention for the Unification of certain rules relating to international carriage by air, commonly known as the Warsaw Convention 1929, was ratified by the 1953 Decree on Air Carriage.
 - b) Law No. 66/1970 ratifies the Hague Protocol 1955 and the Guadalajara Convention 1961, which amend and supplement the Warsaw Convention.
 - c) Law No. 173/1988 implements the Protocol of Guatemala 1971 and Protocols of Montreal 1975, amending the Warsaw Convention.
 - d) Law No. 213/1988 applies the Convention on International Civil Aviation signed in Chicago in 1944 and its Thirteen Protocols of 1947–1984.
 - e) The Convention for the Unification of certain rules for international carriage by air, known as the Montreal Convention 1999, has become a part of the Cyprus legal order through Law No. 2(III)/2002.
 - f) Law No. 30/1972 implements the Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention 1970).
 - g) Law No. 31/1972 embodies the Convention on Offences and Certain other acts committed on board aircraft (Tokyo Convention 1963).
 - h) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention 1973) was ratified by Law No. 37/1973.

- i) Law No. 15/1990 ratifies the EUROCONTROL Convention on Aviation Security 1960 and later, Law No. 22(III)/2000 adopts the Brussels Convention 1977 amending the EUROCONTROL Convention.
 - j) Law No. 33(III)/2001 adopts the 1988 Protocol relating to suppression of unlawful acts against the safety of civil aviation.
 - k) Law No. 10(III)/2018 ratifies the Convention on the suppression of unlawful acts relating to international civil aviation.
 - l) Cyprus has not ratified the Cape Town Convention. Nevertheless, Cyprus has been a member of the European Union since 1 May 2004. The European Union acceded to the Convention on 28 April 2009 only as far as it has competency over subjects of the Convention Protocol. The Member States of the EC have transferred their competence to the Community as regards matters which affect Council Regulation (EC) No. 49/2001 on jurisdiction and the recognition and enforcement of judgments, Council Regulation (EC) No. 1346/2000 on insolvency proceedings and Regulation (EC) No. 593/2008 on the Law applicable to contractual obligations (Rome I).
- ii) **Internal and other non-convention carriage:** Article 285 of the Civil Aviation Law stipulates that the scope of application in the Republic of the provisions of the Conventions of Chicago 1944, Tokyo 1963, Hague 1970 and Montreal 1973 are extended so that they apply not only to international flights but also to domestic flights. Further, Section 231(2) of the said Law underlines that the provisions of the Montreal Convention 1999 also cover internal air carriage.

2.7 How are the Conventions applied in your jurisdiction?

In accordance with the established principle of the Supreme Court's case law, Community law is superior to national law. Furthermore, international treaties to which the Republic has acceded have more force over any other domestic law (Article 169 of the Constitution) but not over Community law (Article 169.3 of the Constitution). Cyprus has implemented most international law instruments, which are applied as part of the Cypriot legal order.

2.8 Does your jurisdiction make use of any taxation benefits which enhance aircraft trading and leasing (either in-bound or out-bound leasing), for example access to an extensive network of Double Tax Treaties or similar, or favourable tax treatment on the disposal of aircraft?

In terms of sales tax, there is no specific sales tax in Cyprus, but a sale of an aircraft may lead to revenue taxation depending on whether the sale can be deemed to be income from a trading activity and/or profit. It may be better to deal with shares to minimise taxation. The leasing of a private aircraft is considered as a supply of services and is taxable with 19% VAT. Nevertheless, where the lessor is a company incorporated in Cyprus and registered with the VAT authorities, the profits of the lessor are subject to a favourable regime. The new Cyprus aircraft leasing scheme provides for reduced VAT depending on the aircraft type (piston, turbo or jet) and the percentage of use within the EU, which is fixed depending on the type of aircraft. As a result, a rate of 19% VAT is chargeable down to 20% only of the 19% normal rate. Please see the relevant tables below.

Aircraft type: piston		
Weight on take-off	Percentage of use within the EU	Effective tax rate
Light: 1kg – 3,000kg	100%	100% of the consideration × 19%
Small: 3,001kg – 5,700kg	80%	80% of the consideration × 19%
Medium: 5,701kg – 15,000kg	60%	60% of the consideration × 19%
Large: over 15,001kg	40%	40% of the consideration × 19%

Aircraft type: turbo		
Weight on take-off	Percentage of use within the EU	Effective tax rate
Light: 1kg – 3,000kg	55%	55% of the consideration × 19%
Small: 3,001kg – 5,700kg	45%	45% of the consideration × 19%
Medium: 5,701kg – 15,000kg	35%	35% of the consideration × 19%
Large: over 15,001kg	25%	25% of the consideration × 19%

Aircraft type: jet		
Weight on take-off	Percentage of use within the EU	Effective tax rate
Light: 1kg – 3,000kg	50%	50% of the consideration × 19%
Small: 3,001kg – 5,700kg	40%	40% of the consideration × 19%
Medium: 5,701kg – 15,000kg	30%	30% of the consideration × 19%
Large: over 15,001kg	20%	20% of the consideration × 19%

It is specified that for the benefits of the tax to be applicable, the profits from the lease agreement should be at least 5% of the aircraft's original value and the lessee must have primary place of residence/establishment in Cyprus and meet some other requirements, i.e. not to claim input VAT, meaning that the aircraft should be used for leisure and the initial instalment the lessee should pay should be less than 40% of the value of the aircraft. Further information can be obtained from the Cyprus VAT authorities. The scheme was introduced in 2015.

There are no restrictions on imports/exports. Depending on the country of origin from which the aircraft will be imported, there may be customs taxes, import taxes and/or VAT. Cyprus has been a member of the EU since 1 May 2004. The customs regime applicable within the EU is applicable. No import duties or customs are imposed. From other countries, the matter is governed by the EU Common Tariff GATT Regime. The

appropriate authority for imports and exports is the Customs and Excise Department, a Department of the Ministry of Finance (<https://mof.gov.cy/gr>). Generally, from third countries, import duties are imposed: for up to 2,000kg net weight, 7.7%; and for over 15,000kg net weight, 2.7% plus VAT.

Transfer of funds within the European Union are exempt from any restrictions – the EU Regime is applicable. For other countries, the Central Bank has relaxed foreign exchange restrictions substantially since accession to the European Union (see <https://www.centralbank.cy>).

2.9 To what extent is there a risk from the perspective of an owner or financier that a lessee of aircraft or other aviation assets in your jurisdiction may acquire an economic interest in the aircraft merely by payment of rent and thereby potentially frustrate any rights to possession or legal ownership or security?

A properly drafted lease agreement will avoid the possibility of a lessee acquiring an economic interest in the aircraft merely by payment of rent.

3 Litigation and Dispute Resolution

3.1 What rights of detention are available in relation to aircraft and unpaid debts?

A mortgagee or equivalent security interest holder or lessor following an event of default under a mortgage (or equivalent security document) or lease, respectively, can take repossession of the aircraft, e.g., through the appointment out of Court of a receiver and manager, transfer of the shares under blank instrument of transfers, or under the terms of the lease/mortgage.

The conditions and procedural steps and formality requirements and relevant documentation will depend on the wording of the relevant security document. There is also a possibility of obtaining interim injunctions in the case of a dispute arising and, in clear cases, it is possible that the Court will order delivery and possession at an interim stage pursuant to the provisions of Section 32 of Law No. 14/60, Courts of Justice Law and the relevant jurisprudence under it. Basically, the plaintiff must show a good cause of action, a visible chance of success, irreparable loss or damage or difficulty in satisfying the final judgment, and that the scales of justice favour that the order should be granted on an interim basis. See *Odysseos v. Pieris* (1982) 1 CLR 557. Further, through redemption of company shares under a pledge, possession may be obtained, although this may involve litigation if not complied with blank instruments of transfer.

3.2 Is there a regime of self-help available to a lessor or a financier of an aircraft if it needs to reacquire possession of the aircraft or enforce any of its rights under the lease/finance agreement?

It is possible for a mortgagee or equivalent security interest holder or lessor under the lease or designee/beneficiary of an IDERA (Irrevocable Deregistration and Export Request Authorization) to deregister the aircraft. As mentioned above, registration in the Cyprus Aircraft Register is possible under Section 13(3) of the basic Civil Aviation Law of 2002 (213(1)/2002).

The party concerned can apply for the striking out/deletion of the registration on grounds that the aircraft will be registered in a foreign register or in all cases where the aircraft has lost its Cyprus nationality, e.g. the majority ownership falls into foreign

hands. Under Section 13.4, the striking out/deletion is automatic in such a case (loss of nationality ownership) or upon the application of the interested party in case of the need to transfer registration to a foreign register.

Self-help may be available indirectly through the ownership of shares in a company where blank instruments of transfer are issued.

3.3 Which courts are appropriate for aviation disputes? Does this depend on the value of the dispute? For example, is there a distinction in your jurisdiction regarding the courts in which civil and criminal cases are brought?

The District Courts of Cyprus have first instance jurisdiction. Appeals are permissible without leave to the Supreme Court. A new Appeals Court is now in place as from January 2023 and/or 1st July 2023. See question 3.7 below. For criminal matters, the District Court and Assize Courts for felonies have jurisdiction with a right of appeal as stated above. In some very limited number of cases, the Admiralty Court may have jurisdiction under the provisions of the Administration of Justice Act 1956 applicable in Cyprus. By virtue of new legislation a new Commercial and Admiralty Court has been created but is not yet in operation. It is expected to come into operation in 2023. Matters relating to the issue of operators and other aviation licenses are dealt with at first instance by the Administrative Court with a right to appeal to the new Appeals Court and finally by leave to the new Supreme Constitutional Court. Examples of administrative law litigation relating to licenses or permits can be found in the following case law:

1. *UR IKAROS BALLOON FLIGHTS LTD v. Υπουργός Συγκοινωνιών και Έργων κ.α., Αναθεωρητική Έφεση* Αρ.57/2010, 19/12/2014.
2. *AVIAPARTNER CYPRUS LTD v. HERMES AIR PORT LTD*, Υπόθεση Αρ. 654/2008, 6/11/2013.
3. *Ajet Aviation Ltd v. Κυπριακής Δημοκρατίας* (2013) 3 ΑΑΔ 351.
4. *GURDAL MEHMETCHIK v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ*, 1361/2010, 20/4/2012.
5. *Eurocypria Airlines Ltd υπό εκκαθάριση μέσω του εκκαθαριστή της Κρις Ιακωβίδη v. Κυπριακής Δημοκρατίας και Άλλης* (2011) 1 ΑΑΔ 1783.
6. *Aeolos Travel v. Δημοκρατίας* (1997) 4 ΑΑΔ 2205.
7. *Vnukovo Airlines (VA) κ.ά. v. Δημοκρατίας* (1996) 4 ΑΑΔ 1676.
8. *LGS HANDLING LTD v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ ΥΠΟΥΡΓΕΙΟΥ ΣΥΓΚΟΙΝΩΝΙΩΝ ΚΑΙ ΕΡΓΩΝ*, Υπόθεση Αρ. 1427/2008, 17 Φεβρουαρίου 2012.
9. *AVIAPARTNER CYPRUS LTD v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ ΥΠΟΥΡΓΕΙΟΥ ΣΥΓΚΟΙΝΩΝΙΩΝ ΚΑΙ ΕΡΓΩΝ κ.α., ΣΥΝΕΚΔΙΚΑΖΟΜΕΝΕΣ ΥΠΟΘΕΣΕΙΣ* ΑΡ. 913/2008 ΚΑΙ 914/2008, 28 Ιανουαρίου 2011.
10. *SWISSPORT CYPRUS LIMITED v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ ΤΟΥ ΥΠΟΥΡΓΟΥ ΣΥΓΚΟΙΝΩΝΙΩΝ ΚΑΙ ΕΡΓΩΝ*, Υπόθεση Αρ. 1622/2008, 1 Νοεμβρίου 2010.
11. *UR IKAROS BALOON FLIGHTS LTD v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ ΥΠΟΥΡΓΟΥ ΣΥΓΚΟΙΝΩΝΙΩΝ ΚΑΙ ΕΡΓΩΝ κ.α.*, Υπόθεση Αρ. 1609/2007, 12 Μαρτίου 2010.
12. *ΑΝΤΩΝΑΚΗΣ ΟΙΚΟΝΟΜΙΔΗΣ v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ ΥΠΟΥΡΓΕΙΟΥ ΣΥΓΚΟΙΝΩΝΙΩΝ ΚΑΙ ΕΡΓΩΝ ΤΜΗΜΑΤΟΣ ΠΟΛΙΤΙΚΗΣ ΑΕΡΟΠΟΡΙΑΣ*, Συνεκδικαζόμενες Υποθέσεις Αρ. 57/2008 και 226/2008, 3 Νοεμβρίου 2009.

13. *AJET AVIATION LIMITED v. ΚΥΤΙΠΛΑΚΗΣ ΔΗΜΟΚΡΑΤΙΑΣ ΜΕΣΩ ΥΠΟΥΡΓΕΙΟΥ ΣΥΓΚΟΙΝΩΝΙΩΝ ΚΑΙ ΕΡΓΩΝ*, Υπόθεση Αρ. 135/2007, 1 Σεπτεμβρίου 2009.

At present all appeals are to the Supreme Court which will be defunct by January or July 2023.

3.4 What service requirements apply for the service of court proceedings, and do these differ for domestic airlines/parties and non-domestic airlines/parties?

Service abroad is permissible under the Civil Procedure Rules where the cause of action is connected with Cyprus (Order 6). Further bilateral and multilateral conventions are applicable as well as EU Law for EU nationals/residents. Leave to serve and substituted service is easily granted. Courts have jurisdiction over all Cyprus residents including Cyprus registered companies or associations.

3.5 What types of remedy are available from the courts or arbitral tribunals in your jurisdiction, both on i) an interim basis, and ii) a final basis?

Usual remedies are injunctions and damages as well as declaratory judgments. Where there is a bilateral treaty, the matter is governed by the provisions of the bilateral treaty, e.g. between Cyprus and Greece. There are also multilateral conventions and between Member States.

Cyprus has signed a number of bilateral agreements that cover legal/judicial cooperation, including matters relating to the recognition and enforcement of judgments.

- Czech Republic, ratifying Law No. 68/82.
- Hungary, ratifying Law No. 7/83.
- Bulgaria, ratifying Law No. 18/84.
- Greece, ratifying Law No. 55/84.
- Syria, ratifying Law No. 160/86.
- Russian Federation, ratifying Law No. 172/86.
- Serbia, Slovenia, ratifying Law No. 179/86.
- Egypt, ratifying Law No. 32(III)/96.
- China, ratifying Law No. 19(III)/95.
- Poland, ratifying Law No. 10(III)/97.

Additionally, Cyprus has acceded to the Convention on the Recognition of Foreign Judgments in Civil and Commercial Matters and Supplemental Protocol signed at The Hague in 1971 (ratifying Law No. 11/1976). However, this Convention has only entered into force between Portugal and the Kingdom of the Netherlands, countries that have acceded to the Convention.

Also, Cyprus has acceded to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

By way of interim reliefs, interrogatory injunctions may be issued.

3.6 Are there any rights of appeal to the courts from the decision of a court or arbitral tribunal and, if so, in what circumstances do these rights arise?

See question 3.3 above. There is a right of appeal to the Supreme Court without leave. In terms of arbitration awards, these can only be appealed in relation to matters of law or jurisdiction. As from first of July 2023, it is expected that a new Appeals Court will be set up which will hear all appeals from the Administrative Courts and/or the District Courts applying civil law. Leave to appeal on points of law may be granted for very important matters to the new Supreme Constitutional Court in administrative law issues or the new Supreme Court in civil law matters.

The new legislation was enacted and published in the Official Gazette on 5th August 2022 and although it was intended to come into force in January 2023, a bill is pending before the House of Representatives to extend the period of implementation to 1st July 2023.

3.7 What rights exist generally in law in relation to unforeseen events which might enable a party to an agreement to suspend or even terminate contractual obligations (in particular payment) to its contract counterparties due to *force majeure* or frustration or any similar doctrine or concept?

The doctrine of frustration is applicable in Cyprus. It is regulated by Section 37, Cap 149 of the Contract Law. Recently, the Supreme Court decided that impossibility of performance is a valid ground of termination. See Civ. Appeal 341/2013 *KeM (Transport) Ltd v. Grain Commission*.

4 Commercial and Regulatory

4.1 How does your jurisdiction approach and regulate joint ventures between airline competitors?

As regards the application of competition law and state aid laws, the competent authority in Cyprus is the Commission for the Protection of Competition (CPC). The relevant provisions are included in the Protection of Competition Law No. 13(I)/2008 as amended by Law No. 41(1)/2014.

The Protection of Competition Law, Law No. 13(1)/2008, as amended by Law No. 41(1)/2014, is in force as well as the law against illegal concentrations of enterprises, the Control of Concentrations of Enterprises Law 2014, Law No. 83(1)2014. The CPC operates very effectively, assisted by the Service of the CPC Secretarial responsible for carrying out all investigations. Any joint ventures between airline competitors will be subject to the rules of the CPC.

4.2 How do the competition authorities in your jurisdiction determine the 'relevant market' for the purposes of mergers and acquisitions?

In Decision 13/2019, the CPC defined the relevant market as the market for the provision of water supply services for household purposes by way of illustration. In Decision 42/2019, the CPC defined the relevant market as the market for producing and presenting theatrical performances in Cyprus. In Decision 53/2019, the market was for the wholesale distribution of heavy-duty laundry detergents in Cyprus. The CPC draws upon its jurisprudence and the EU Law and practice on competition. Each case will be decided on its own merits. Block exceptions are granted as well as individual clearances.

4.3 Does your jurisdiction have a notification system whereby parties to an agreement can obtain regulatory clearance/anti-trust immunity from regulatory agencies?

There is in place a notification system whereby parties to an agreement can obtain regulatory clearance/anti-trust immunity from regulatory agencies. Section 5 of the Law provides for the general exceptions and Section 7 for the general exceptions to abuse of a dominant position. Under Section 23 of the Law, the CPC has a wide range of powers and competences. It can also grant block exemptions by Orders published in the Official

Gazette, e.g. in the Moto Vehicles Sector (P.I. 140/2014), or relating to retailers of goods (P.I. 141/2014).

4.4 How does your jurisdiction approach mergers, acquisition mergers and full-function joint ventures?

Under Section 50 of the Protection of Competition Law, Law No. 13(1)/2008, as amended by Law No. 41(1)/2014, the CPC applies *mutatis mutandis* the relevant provisions of the European Competition Law where the matter is not expressly governed by the Law. In all respects, the EU Competition Law has been incorporated in the provisions of Cyprus Law. Reference is expertly made to Council Regulation (EC) No. 1/2003 and Articles 81 and 82 of the Treaty on the Functioning of the European Union (TFEU) as well as Council Regulation (EC) No. 1419/2006. As a full member of the EU, Cyprus competition laws and practices follow EU Law.

4.5 Please provide details of the procedure, including time frames for clearance and any costs of notifications.

An application is filed with the CPC for obtaining clearances. Provided all the material is available, a decision must be taken within 30 days under Article 29 of the Constitution. In practice, it takes longer depending on the nature of the case.

4.6 Are there any sector-specific rules which govern the aviation sector in relation to financial support for air operators and airports, including (without limitation) state aid?

The *acquis communautaire* on state aid and control is applicable in Cyprus. A Commissioner for State Aid Control functions complementary to the European Commission. The rules of general competition policy in the EU aim to maintain and strengthen the conditions for ensuring a level playing field among all European undertakings. The legislation was amended several times (e.g. Public Aid Control Law No. 30(1)2001, State Aid Control (Amendment Law) 2004). The service is run by the Commission for State Aid Control. A number of Government departments are involved in approved State Aid Schemes. Cyprus Airways had to close down in view of fines imposed or imminent for violations of the State Aid Scheme of the European Union.

Articles 101, 102, 107 and 108 TFEU are also applicable. Given the liberalisation of air transport, fresh opportunities continuously arise for air carriers to take a stand in the competitive Cypriot air transport market. Notably, the European Commission in its Decision 2015/1073 found that Cyprus illegally granted state aid to Cyprus Airways (€66,090,000 in total) in breach of Article 108(3) TFEU, distorting free competition in the market of air transport in Cyprus and the EU. Given that Cyprus Airways was unable to return the illegal state aid, it eventually went bankrupt.

Moreover, the European Commission underlines that “the availability of competitive airport services, including runways, passenger terminals and groundhandling, is critical for the continued success of EU aviation”. Hermes Airports Ltd (Hermes) has the exclusive management rights of Larnaca and Pafos Airports, under a concession agreement with the Republic. Remarkably, following complaints by a private company against Hermes, the CPC decided that Hermes breached Article 6(1)(a) of Law No. 13(I)/2008 due to abuse of its dominant position regarding parking facilities at Larnaca Airport. The Commission considered the nature and gravity of the infringement and decided to impose an administrative fine of €1,193,864.

4.7 Are state subsidies available in respect of particular routes? What criteria apply to obtaining these subsidies?

See question 4.6 above.

4.8 What are the main regulatory instruments governing the acquisition, retention and use of passenger data, and what rights do passengers have in respect of their data which is held by airlines and airports?

Under Cyprus Law, an efficient office of the Commissioner for Personal Data Protection is run. The legislation incorporates the latest EU Law on the matter and the relevant GDPR regulation. The relevant law is Law No. 125(1)2018. All EU Laws and directives are applicable or carried through to national legislation including the Passenger Name Record Directive. Passengers may file a complaint or institute Court proceedings. Criminal charges may also be filed by a complainant.

4.9 In the event of a data loss by a carrier, what obligations are there on the airline which has lost the data and are there any applicable sanctions?

The sanctions are civil or criminal. The relief granted may be damages, or criminal charges may be pursued.

4.10 What are the mechanisms available for the protection of intellectual property (e.g. trademarks) and other assets and data of a proprietary nature?

Legislation in force protects Patents, Trademarks, Copyright, Trade Secrets and other rights protected by passing-off actions.

4.11 Is there any legislation governing the denial of boarding rights and/or cancelled flights?

The Flight Compensation Regulation No. 261/2004 relating to denied boarding, flight cancellations, or long delays of flights is applied in Cyprus through RAA No. 283/2005. Moreover, Regulation No. 2111/2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier is embodied by RAA No. 541/2007. Regarding the rights of disabled persons and persons with reduced mobility when travelling by air, Regulation No. 1107/2006 is applied through RAA No. 287/2008.

The DCA is responsible for implementing the above Regulations in cases where the passenger departs from Larnaca or Paphos Airport or from a third-country airport to those airports and the air carrier is a Community carrier.

Passengers have the right to lodge a complaint to the DCA in case of an alleged violation. If a violation is found, the passenger is entitled to the compensation provided. Also, the offender is subject to administrative sanctions. Such a sanction may result in the imposition of a fine or the suspension or revocation of a licence.

Interestingly, in the course of Action No. 189/2016 between *D.Z. v. Blue Air Management Solutions SRL*, the District Court of Larnaca requested for a preliminary ruling under Article 267 TFEU on issues relating to denied boarding, passenger rights and the responsibility of the air carrier that arose. The CJEU

gave its ruling on 30 April 2020 in case C-584/18, holding that an air carrier's refusal of boarding based on the allegedly inadequate nature of travel documentation does not deprive, *per se*, the passenger from protection under Regulation No. 261/2004. Accordingly, in the event of a challenge, it is for the competent court to assess whether such denied boarding is reasonably justified or not. In this regard, Regulation No. 261/2004 precludes a provision, included in the air carrier's general terms, which limits or excludes its liability in the event of denied boarding for reasons relating to the allegedly inadequate nature of the passenger's travel documentation and thus deprives the passenger of any right to compensation he or she may have. The Supreme Court of Cyprus in an appeal no. 336/2010, decided that the pilot of the plane cannot deny passengers holding valid tickets who are ready to board without reasonable cause or justification access to boarding. This would be contrary to European Regulation EC261/2004, Article 2J, Article 3(2). In the circumstances, the airline was bound to compensate for the unjustified denial of boarding pursuant to European Regulation above Article 7 1(γ) which was applicable in the circumstances. Regulation (EEC) No. 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and repealing Regulation (EEC) No. 295/1991 is applicable.

4.12 What powers do the relevant authorities have in relation to the late arrival and departure of flights?

See question 4.11 above. With regard to late arrivals and departure of flights, the legislative regime applicable is described above. In addition, the relevant provisions relating to contractual rights and duties as interpreted by the Supreme Court are applicable. Common law and equity are applicable under Section 29 of Law No. 14/60. The jurisprudence of the English Courts is applicable.

4.13 Are the airport authorities governed by particular legislation? If so, what obligations, broadly speaking, are imposed on the airport authorities?

See question 1.7 above. Airport authorities in Cyprus are private. Airports are run by joint enterprises under the supervision of DCAC. It has a supervisory role in matters of security and licensing/certification in accordance with Annex 14 (Aerodromes) of the Treaty of Chicago. The Civil Aviation Law regulates all relevant matters, including aircraft registration, airworthiness, maintenance and other safety rules, training of the aircraft crew, responsibilities and liability of the captain, airports' operation and fees, ground handling, landing and take-off rules, air carriers, environmental protection, civil liability of air carriers and protection of the civil aviation. Each Section is also governed and supplemented by the corresponding Regulatory Administrative Acts (RAA) as well as the relevant EU and international instruments.

4.14 To what extent does general consumer protection legislation apply to the relationship between the airport operator and the passenger?

Consumer protection is covered by numerous legislative instruments in Cyprus. National Law is in accordance with Directive 2015/2302, which introduces a high, uniform level of consumer protection in relation to contracts for travel packages. In addition, all EU regulations and directives in general, including jurisprudence of the Luxembourg Court protecting passengers,

are applicable in Cyprus. The jurisprudence of the Supreme Court of Cyprus recognises and applies EC jurisprudence and EU Law, which under the Cyprus Constitution has superiority over any national law or treaty including the Constitution itself.

4.15 What global distribution suppliers (GDSs) operate in your jurisdiction?

Famous Global Distribution Ltd, Agility and others.

4.16 Are there any ownership requirements pertaining to GDSs operating in your jurisdiction?

None other than the usual, e.g. registration of company, business name, etc.

4.17 Is vertical integration permitted between air operators and airports (and, if so, under what conditions)?

See questions 1.7 and 4.1 above.

4.18 Are there any nationality requirements for entities applying for an Air Operator's Certificate in your jurisdiction or operators of aircraft generally into and out of your jurisdiction?

See questions 1.2, 1.3 and 2.1 above. According to Regulation (EC) No. 1008/2008, the air operator is required to obtain an operating licence and an AOC. The licensing of air carriers falls under the responsibility of the ATLA. An air carrier is licensed after securing an AOC from the DPA, which certifies that the air carrier has the professional capacity and organisation to ensure the safe operation of aircraft for the aviation activities mentioned in it. The conditions and procedure for issuing, suspending and withdrawing an AOC are defined in the JCAA Regulations, which are in force in the Republic.

Once the AOC has been issued, the applicant must also acquire an operating licence, which allows the air carrier to provide air transport services as specified in it. Article 113 of the Civil Aviation Law provides that the operating licence is issued, suspended and revoked in accordance with the provisions of Regulation (EEC) No. 2407/92.

The air carrier's operating licence may be suspended or revoked if the operator is committing serious or repeated breaches of its obligations under the Civil Aviation Law or EU Law (Article 247(4) of the Civil Aviation Law).

Registration, transfer and deletion of the aircraft and of its rights, as well as every modification of the submitted data, are recorded in the Cyprus Aircraft Register, which is kept by the DCA. The conditions under which an aircraft can be registered in the Cyprus Register are specified under Section 11 of the 2002 Law, as follows: a) the aircraft must not be registered in a foreign register; b) the

aircraft has a valid certificate of airworthiness; c) the aircraft's environmental compliance is attested by noise certification; and d) the aircraft's owner with a stake greater than 50% or holder of the rights to acquire them is a natural person of Cypriot nationality, or an EU national, even if not residing or staying in the Republic, or a body corporate that has been incorporated under Cyprus Law or a Member State law, has its registered office and main place of business in Cyprus or Member State territory, and of which more than 50% of the assets and capital are held by Cypriot or EU nationals.

5 In Future

5.1 In your opinion, which pending legislative or regulatory changes (if any), or potential developments affecting the aviation industry more generally in your jurisdiction, are likely to feature or be worthy of attention in the next two years or so?

Undoubtedly, Cyprus' aviation law reflects and incorporates entirely the EU and international civil aviation legal regime. Cyprus, through the DCA, closely follows new developments so as to comply with the new regulations and directions effectively and expeditiously.

Currently, 70 airlines fly from Cyprus to 40 countries and 120 destinations, and new routes are expected to be added. The liberalisation of air transport, in combination with the development of the new airports, is expected to create the potential for Cyprus to become a regional transit hub between Europe and the Middle East. Nevertheless, public concerns remain regarding high airfares, given that the latter negatively affect the island's connectivity.

In an intervention at the EU Transport and Telecoms Council that took place in Luxembourg in June 2019, the Cyprus Minister of Transport raised the issue of air pollution and warned her counterparts that efforts to reduce greenhouse gas emissions from the aviation industry should not make prices prohibitive, since air transport is indeed the only means for Cyprus residents to connect with Europe and the rest of the world. She also underlined that any effort to reduce emissions should be based on ensuring the international competitiveness of the EU aviation sector and considering the particularities of all Members States (<https://cyprus-mail.com/2019/06/07/reducing-aviation-emissions-mustnt-undermine-cyprus-connectivity-minister-warns>).

Meanwhile, the Ministry of Transport, in cooperation with Hermes Airports, has already proceeded with the incentive programmes aimed at strengthening connectivity. In parallel, the regulatory framework applied in the EU as well as the "open skies" policy, as implemented by the Cyprus Government in its relations with third countries (for instance, the bilateral agreements with Australia, Bahrain, Egypt, Kuwait, Lebanon and Saudi Arabia), have also contributed to the development of air transport.

The Department of Civil Aviation is working on the consolidation of Aviation Law and its improvement.



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Phoebus, Christos Clerides & Associates LLC was established in Nicosia, Cyprus in 1950. The firm was carried forward by the son of Phoebus Clerides – Dr. Christos Clerides of King's College London, Advocate. Phoebus Clerides was an ex-Minister of Justice and an ex-member of the House of Representatives. Dr. Christos Clerides was also an ex-member of the House of Representatives and the National Council of Cyprus. The firm practises insurance law, civil litigation, commercial litigation and human rights and public law judicial review. The firm is now strengthened by the third generation of lawyers – Phoebe Clerides, Alexandros Clerides and Constantinos Clerides, Advocates, all British trained. They deal with all aspects of civil and commercial litigation, human rights and judicial review at all levels. Members of the Law Office contribute articles to journals and are active in various NGOs and Committees of the Cyprus Bar Association. They are actively involved in litigation.

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