MBA
AVIATION MANAGEMENT

FRANKFURT UNIVERSITY OF APPLIED SCIENCES

# Legal and Regulatory Issues of Aviation

## Institutions & Authorities

Dr. Till Vogel

**Fachbereich 3**
Wirtschaft und Recht | Business and Law

# Agenda for this Modul

- Institutions and Authorities
- Traffic Rights
- Access to Airports
- Compliance
- Safety & Security
- Liability & Consumer Protection
- Air Traffic Control - ATC
- Travel Agencies

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# Agenda for this Modul

**Saturday, 2022/09/17**

- Institutions and Authorities
- Traffic Rights
- Access to Airports
- Compliance

**Sunday, 2022/09/25**

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# Part I
# Institutions and Authorities of Aviation

# Useful books

- *Diederiksen-Verschoor/Mendes de Leon,*
  An introduction to Air Law, 10th edition, 2017
- *Havel/Sanchez,*
  The Principles and Practice of International Aviation Law, 2014
- Paul Stephen Dempsey, Ram Jakhu
  Routledge Handbook of Public Aviation Law, 2017
- Milde, Michael,
  International Air Law and ICAO - Third edition - 2016
- *Schaefer, Christoph,*
  Recht des Luftverkehrs, 2017

# Short History of Aviation Law

- Since mankind is flying there are legal questions
  *"Who pays for damages"*
  *"Are they allowed to fly over my property?"*
  …
- When motorized flight was getting more and more popular the need for rules and laws became more and more apparent.
  - Use of balloons in times of war
  - Use of aircraft
  - Question of sovereignty of states over its airspace
- The principle of sovereign air space is still valid today
  - Entry and over-flights require diplomatic clearances
  - Freedoms of the air

# History of Aviation Law

The fast technical achievements required it to address aviation law issues on a global level

- I. International Aviation Conference in Paris in 1910
  - Didn't produce any framework agreement

# History of Aviation Law

The fast technical achievements required it to address aviation law issues on a global level

- I. International Aviation Conference in Paris in 1910
- II. International Aviation Conference lead to

  Paris Convention of 1919
  - 27 signatories and 11 countries ratified it
  - First multilateral approach to aviation law
  - Predecessor to the Chicago Convention

# History of Aviation Law

The fast technical achievements required it to address aviation law issues on a global level

- International Aviation Conference in Paris in 1910
- Paris Convention of 1919
- Chicago Convention of 1944
  - 54 Nations participated, 52 signed
  - Full force and effect in April 1947
  - Formed the International Civil Aviation Organization (ICAO)


ICAO

# ICAO – International Civil Aviation Organization

ICAO is part of the United Nations (UN) as a specialized organization

- ICAOs task is to develop international civil aviation in a safe and orderly manner
- ICAO today has 193 member nations
- ICAO
  - is based on the Chicago Convention (CC)
    - Part II: Articles 43 – 66 CC
    - Article 43: Establishment of ICAO
  - is an international organization without any binding powers
  - sets standards and Recommended Practices
    - Annex 1 - 19

# ICAO – International Civil Aviation Organization

**Now its your turn:**

What would you put on
the agenda for the conference
to standardize in
international civil aviation?

# ICAO – International Civil Aviation Organization

Annex 1 Personnel Licensing (1948)

Annex 2 Rules of the Air (1948)

# ICAO

**ANNEX 2**
**to the Convention on**
**International Civil Aviation**

**Rules of the Air**

Air travel must be safe and efficient; this requires, among other things, a set of internationally agreed rules of the air. The rules developed by ICAO - which consist of general rules, visual flight rules and instrument flight rules contained in Annex 2 - apply without exception over the high seas, and over national territories to the extent that they do not conflict with the rules of the State being overflown. The pilot-in-command of an aircraft is responsible for compliance with the rules of the air.

An aircraft must be flown in accordance with the general rules and either the visual flight rules (VFR) or the instrument flight rules (IFR). Flight in accordance with visual flight rules is permitted if a flight crew is able to remain clear of clouds by a distance of at least 1 500 m horizontally and at least 300 m (1 000 ft) vertically and to maintain a forward visibility of at least 8 km. For flights in some portions of the airspace and at low altitudes, and for helicopters, the requirements are less stringent. An aircraft cannot be flown under VFR at night or above 6 100 m (20 000 ft) except by special permission. Balloons are classified as aircraft, but unmanned free balloons can be flown only under specified conditions detailed in the Annex.

Instrument flight rules must be complied with in weather conditions other than those mentioned above. A State may also require that they be applied in designated airspaces regardless of weather conditions, or a pilot may choose to apply them even if the weather is good.

Most airliners fly under IFR at all times. Depending upon the type of airspace, these aircraft are provided with air traffic control service, air traffic advisory service or flight information service regardless of weather conditions. To fly under IFR, an aircraft must be equipped with suitable instruments and navigation equipment appropriate to the route to be flown. When operating under air traffic control the aircraft must maintain precisely the route and altitude that have been assigned to it and keep air traffic control informed about its position.

A flight plan must be filed with air traffic services units for all flights that will cross international borders, and for most other flights that are engaged in commercial operations. The flight plan provides information on the aircraft's identity and equipment, the point and time of departure, the route and altitude to be flown, the destination and estimated time of arrival, and the alternate airport to be used should landing at destination be impossible. The flight plan must also specify whether the flight will be carried out under visual or instrument flight rules.

Regardless of the type of flight plan, the pilots are responsible for avoiding collisions when in visual flight conditions, in accordance with the principle of see-and-avoid. However, flights operating under IFR are either kept separated by air traffic control units or provided with collision hazard information.

Right-of-way rules in the air are similar to those on the surface, but, as aircraft operate in three dimensions, some additional rules are required. When two aircraft are converging at approximately the same level, the aircraft on the right has the right of way except that aeroplanes must give way to airships, gliders and balloons, and to aircraft which are towing objects. An aircraft which is being overtaken has the right of way and the overtaking aircraft must remain clear by altering heading to the right. When two aircraft are approaching each other head on they must both alter heading to the right.

As interceptions of civil aircraft are, in all cases, potentially hazardous, the Council of ICAO has formulated special recommendations in Annex 2 which States are urged to implement through appropriate regulatory and administrative action. These special recommendations are contained in Attachment A to the Annex

All these rules, when complied with by all concerned, help make for safe and efficient flight.

# ICAO

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# ICAO – International Civil Aviation Organization

| | |
|---|---|
| Annex 1 | Personnel Licensing (1948) |
| Annex 2 | Rules of the Air (1948) |
| Annex 3 | Meteorological Services (1948) |
| Annex 6 | Operation of Aircraft (1948) |
| Annex 7 | Aircraft Nationality and Registration (1949) |
| Annex 8 | Airworthiness of Aircraft (1949) |
| Annex 11 | Air Traffic Services (1950) |
| Annex 13 | Aircraft Accident/Incident Investigation (1951) |
| Annex 14 | Aerodromes (1951) |
| Annex 16 | Environmental Protection (1971) |
| Annex 17 | Security (1974) |
| Annex 18 | Transportation of dangerous Goods (1984) |
| Annex 19 | Safety Management System (SMS) – First Edition 2013 |

# The European Civil Aviation Conference

- The European Civil Aviation Conference (ECAC)
  - Established in 1955; seat near Paris
  - 44 Member States
- Not in competition with ICAO
  - Close cooperation with ICAO
- Key focus areas
  - International Relations
  - Safety & Security
  - Environmental Protection
  - Support function for the European Union
  - Guidance to new members on European Standards

# Joint Aviation Authorities (JAA)

JAA

- JAA started as the *Joint Airworthiness Authorities* in 1970.
- It was founded to produce common certification codes
  - for large airplanes and
  - for engines

  in order to meet the needs of the European industry and international consortia .
- After 1987 its work w (e.g., Airbus) d to operations, maintenance, licensing and certification/design standards for all classes of aircraft.
- Acted through the CAA of the Member States
- Renamed to *Joint Aviation Authorities* (JAA)

# European Aviation Safety Agency (EASA)

EASA is

- Successor Organization to the Joint Aviation Authorities (JAA)
- Headquartered in Cologne, Germany
- Commenced operations in 2003 in accordance with Regulation (EC) 1592/2002 as amended by Regulation (EC) 216/2008 as amended by Regulation (EC) 1139/2018

# European Aviation Safety Agency (EASA)

- Regulatory Oversight Authority
  - Aircraft Type Certification
  - Oversight over National Authorities
  - Approval of Original Equipment Manufacturers (OEM)
  - Approval of Maintenance & Repair Organizations (MRO)
  - Flight Operations
  - Pilot Licensing
  - Aircraft Ramp Checks
  - Airport Operations
- Support of the European Union in Civil Aviation Matters
  - Legislative Guidance

# EASA versus national CAA (development)

- The European Community established the EASA in 2003 with the legal competence to be the rulemaking and standard setting organization for all aviation safety regulation on behalf of its member states.
- The EASA now actively undertakes the tasks of aircraft and product certification, and has responsibility for the rules related to the design and maintenance of aircraft products and parts, plus setting standards for those organizations involved in design, production and maintenance of these products and parts.
- The Agency's rulemaking role is expanding into implementing rules for aircraft operations and flight crew licensing.
- Similarly, work has begun on developing essential requirements to cover air traffic management and airport activities.

# EASA versus national CAA (development) - 2

- As a National Civil Aviation Authority however, LBA retains a statutory duty to exercise full rulemaking and oversight responsibility for all those aspects not being adopted by EASA.
- The developing European framework for the regulation of aviation safety has at its heart "2 pillars" EASA and the National Aviation Authorities of the Community member states.
- Collectively, therefore, a maturing European regulatory system will continue to be focused on seeing that
  - aircraft are properly designed, manufactured, operated and maintained;
  - that airlines operate safely;
  - that flight crews, air traffic controllers and aircraft maintenance engineers are suitably skilled;
  - that licensed aerodromes are safe to use and
  - that air traffic control services and general aviation activities meet the required safety standards.

# EASA versus national CAA

## Who is responsible for what?

The German Civil Aviation Authority (*Luftfahrtbundesamt* or *LBA*) continues to oversee the following key areas (LBA as executive arm of EASA):

- Aircraft registration (Certificate of Registration - CoR)
- Aircraft airworthiness (Certificate of Airworthiness - CoA)
- Noise certificate
- Approval of and oversight over German airlines (AOC Holders)
- Approval of and oversight over air security and safety plans
- Granting of diplomatic clearances (entrance to/leaving airspace)
- Approval of and oversight over the transportation of dangerous goods
- Consumer protection

# Federal Aviation Administration (FAA)

Federal Aviation Administration (FAA) is an authority of the U.S. Department of Transportation.

The FAA's roles include:

- Regulating air navigation facilities' geometric and flight inspection standards
- Encouraging and developing civil aeronautics, including new aviation technology
- Issuing, suspending, or revoking pilot certificates

# Federal Aviation Administration (FAA)

The FAA's role also includes:

- Regulating civil aviation to promote transportation safety in the United States
- Developing and operating a system of air traffic control and navigation for both civil and military aircraft
- Researching and developing the National Airspace System and civil aeronautics
- Developing and carrying out programs to control aircraft noise and other environmental effects of civil aviation

# Industry Organizations

- International Air Transport Association (IATA)
  - Non-governmental,
  - industry not-for-profit organization
  - Represents, leads, and serves the Airline Industry
  - Established in 1945
  - 240 Member Airlines representing 118 Nations
- Association of European Airlines (AEA) – ended
- A4E (Airlines for Europe)
- Association of Asia Pacific Airlines (AAPA)

# Industry Organizations

- Arab Air Carriers Organization (AACO)
- Airlines for America (A4A)
- Latin American and Caribbean Air Transport Association
- Federation of Indian Airlines (FIA)
- The European Low Fares Airline Association (ELFAA)
- Board of Airline Representatives in Germany (BARIG)