

# Legal and Regulatory Issues of Aviation

Access to Airports

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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**

- Safety & Security
- Liability & Consumer Protection
- Air Traffic Control - ATC
- Travel Agencies

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**Saturday, 2022/09/17**

~~■ Institutions and Authorities~~ **Done!**

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- ~~Institutions and Authorities~~
- ~~Traffic Rights~~

Done! Done!

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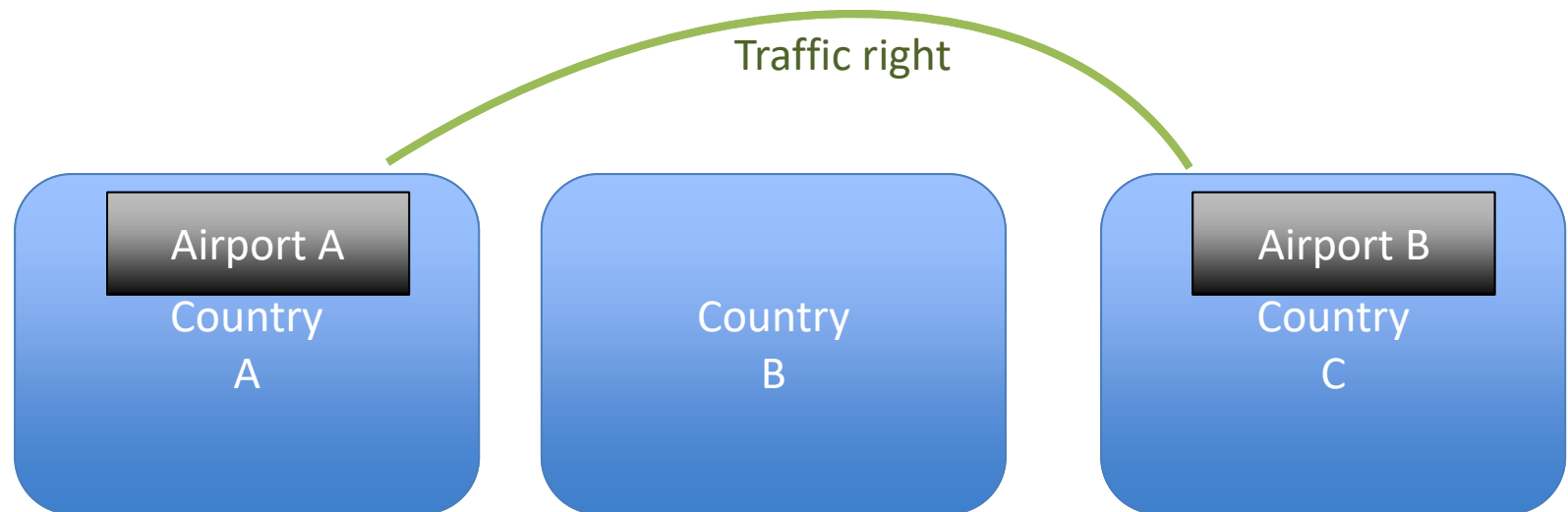
## Useful books

- *Diederiksen-Verschoor/Mendes de Leon*,  
An introduction to Air Law, 10<sup>th</sup> 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

# Part III

## Access to Airports

# Access to Airports



## Access to Airports

- **The number of airports is limited**
- **Germany has approximately 550 airports (*Flugplätze*), but ...**
- **Germany has only 39 passenger airports (*Verkehrsflughäfen*), but ...**
- **Germany has only one active passenger airport in Frankfurt (?), Munich, Hamburg, ...**



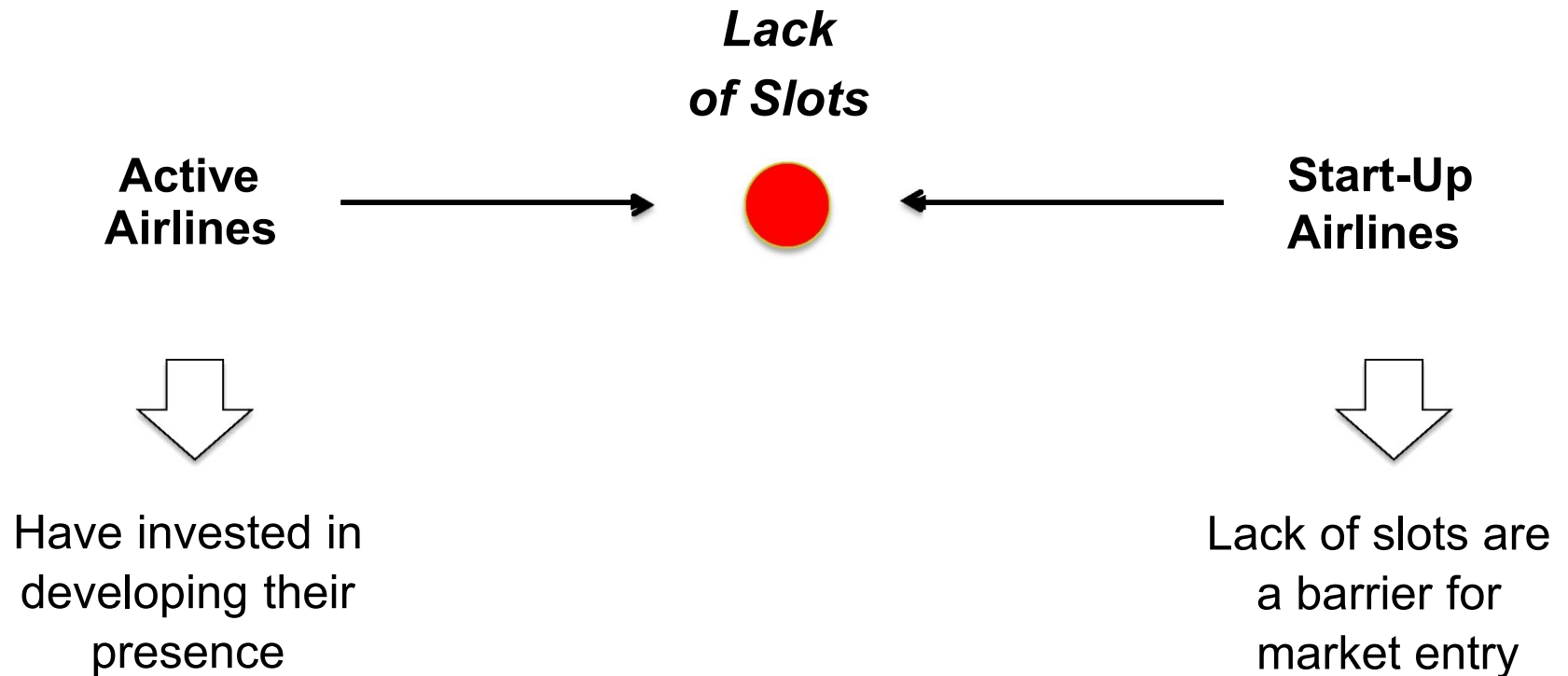
## Access to Airports

- **The capacity of attractive airports is often**
  - **limited due to MTOW of the aircraft**
  - **limited due to opening hours**
  - **or the capacity of the airport is reached!**
- **Airlines need**  
**SLOTS**  
**(*Start Landing Operation Time*)**

## What is a Slot

- **A Slot is the right to**
  - **take off or land**
  - **at a specific day of the week**
  - **at a specific time (+/- 10 min)**
- at a given airport**

# The Slot Dilemma



## How are Slot distributed?

### ➤ **The Airport**

- **does build, maintain and develop the infrastructure but doesn't distribute the slots!**

### ➤ **State Authorities**

- **determine number of available slots at a given airport (e.g. 104/h in FRA) and**
- **enforce slot regulation**

## How are Slot distributed?

### ➤ **The Slot-Coordinator**

- **Has an independent position**
- **Allocates slots to Airlines**

### ➤ **Airlines**

- **Must obtain a slot before using the airport**
- **Participate in coordination process**

# Legal Basis for Slot Distribution

## IATA Worldwide Slot Guideline



## EU Slot Regulation 95/93

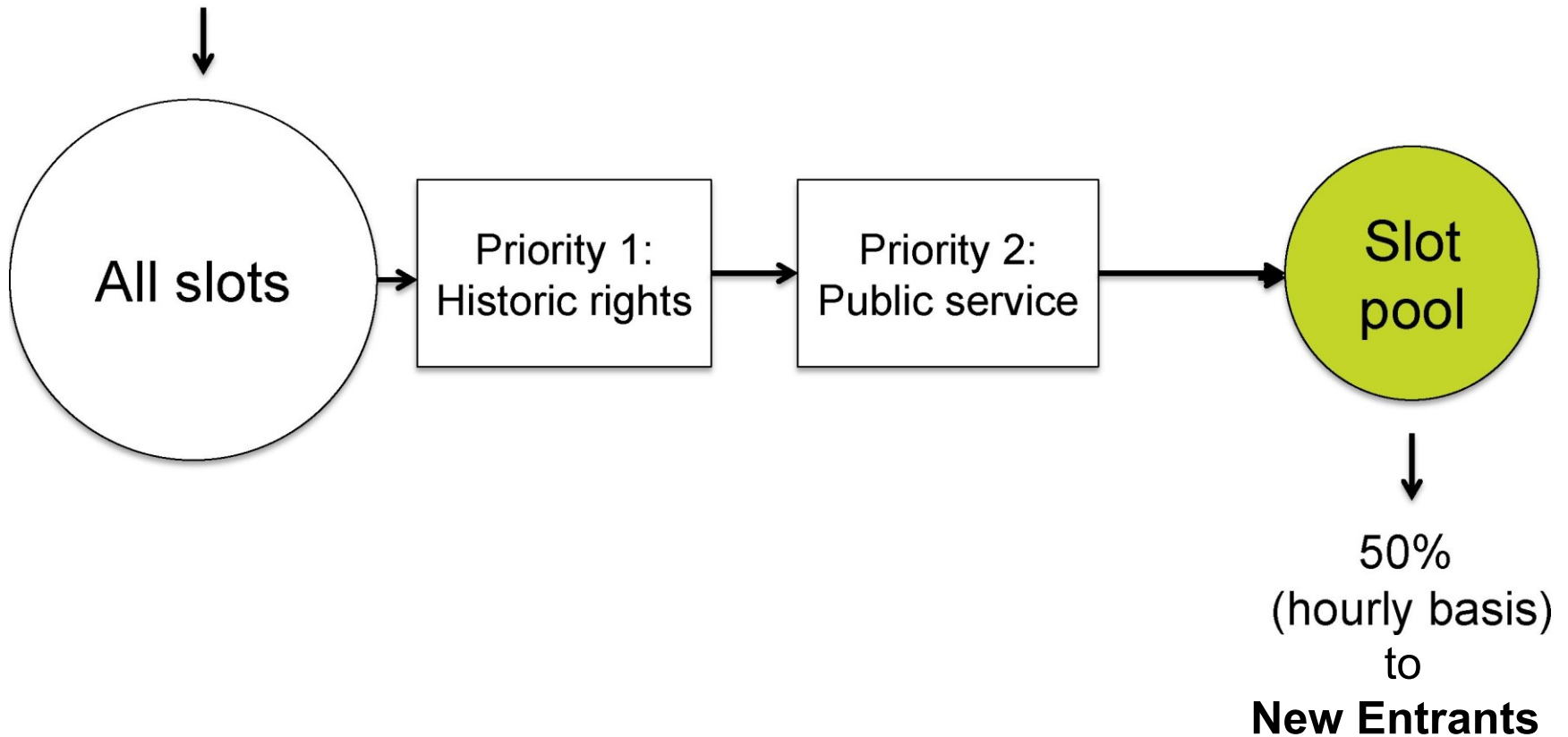


# Determining Slot Situation

- 
- |         |  |
|---------|--|
| Level 1 | Infrastructure meets the demands of all users at all time  |
| Level 2 | Airports with potential to congestion during a certain period, but situation can be resolved by voluntary cooperation between airlines |
| Level 3 | Infrastructure restrictions make it impossible to meet demand. Basis for this analysis is a thorough examination                       |
-

## Criteria for Slot allocation

**New capacity**





## How are Slot distributed?

|   |   |
|---|---|
| Historic Rights<br>(Grandfather-rights) | If series of slots has been allocated in the previous season and slots were operated for > 80% („use-it-or-lose-it-rule“) |
| Public service<br>Obligation            | Allocate slots for routes not adequately served (rare exception)  |
| Slot Pool                               | All slots still available after the above considerations<br>Half of these slots are reserved for new entrants             |

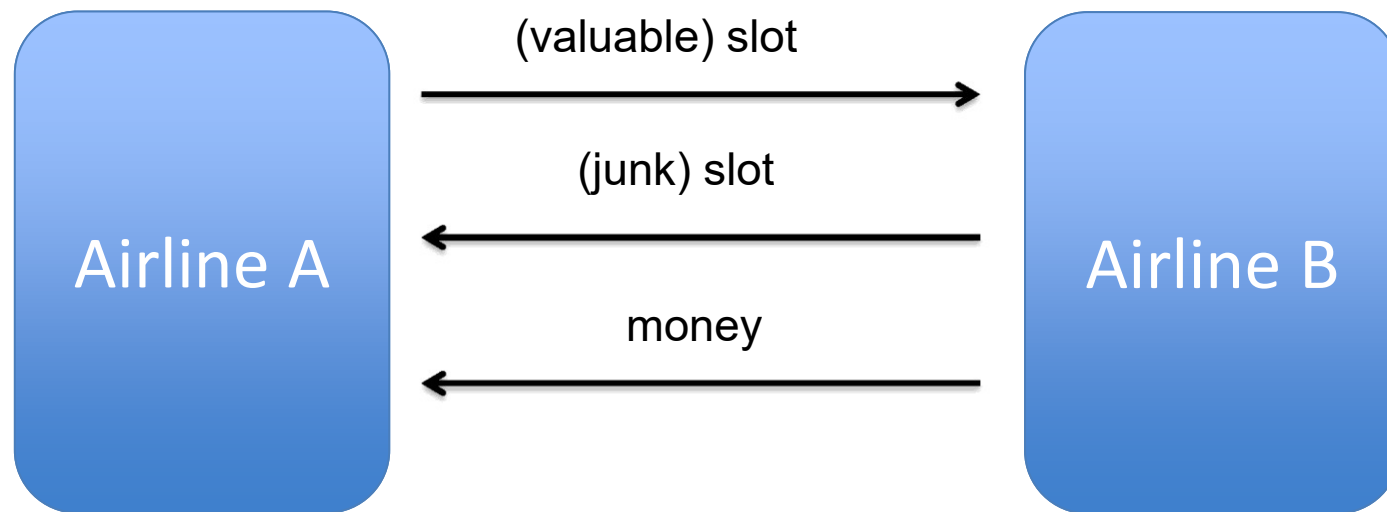
## How are Slot distributed?

- Legal nature of slot not entirely clear (ownership?)
- Slots have high value:
  - estimated value of a pair of slots in LHR:
    - up to 60 mio. USD

## How are Slot distributed?

- Slots may be exchanged between airlines
  - Between affiliated companies
  - By way of trade?
  - According to EU Commission sale of slots not prohibited by Slot Regulation (however national regulation required)
  - Propably not allowed to sell a Slot to a third party airline

## Slots: Commercial trade under current EU rules



Now it's your turn!

## Group Discussion

- What are the pros and cons of the current system?
- What would be alternative models?

## The monopoly of Airports

Airports are natural monopolies

They have a monopolistic structure

- as facility for take-off and landing
- as service provider for Groundhandling

European Union likes competition!

- It is therefore an objective in the EU to break up these monopolies

## Airports: Essential Facilities Doctrine

- Historically airports are infrastructure monopolies owned by the state!
- Directive 96/67/EC regulates access to Groundhandling services on Member States airports, based on Essential-Facilities-Doctrine
- EU Directives are non-binding
  - Member States have to implement the law by way of incorporation into the national Law

## Breaking up the Monopoly: Airport Fees

### Fees:

EU Directive 2009/12/EG prescribing the main rules

- Fees must be strictly cost based
- Transparent procedure required by airport



## What are „Groundhandling Services“

|                                 |   |
|---------------------------------|---|
| Land side<br>("less sensitive") | <ul style="list-style-type: none"> <li>• Ground Admin (e.g. ULD handling)</li> <li>• Passenger handling (e.g. check-in, tickets)</li> <li>• Cargo and mail handling</li> <li>• A/C maintenance (e.g. spare part admin)</li> <li>• Flight ops and crew admin</li> <li>• Catering</li> </ul>  |
| Air Side<br>("sensitive")       | <ul style="list-style-type: none"> <li>• Baggage handling between Airport and AC</li> <li>• Cargo and Mail handling between Airport and AC</li> <li>• Ramp Handling (e.g. marshalling Aircraft on ground)</li> <li>• Aircraft services (e.g. cleaning)</li> <li>• Surface transport (e.g. crew transport)</li> <li>• Fuel &amp; oil handling</li> </ul> |

## Groundhandling: Players

- **Airport**
  - Holds essential infrastructure.
  - May provide groundhandling himself.
  - Has to separate accounts for these services and is not allowed to subsidize groundhandling out of other activities.
  - Has to grant access to infrastructure.
- **Groundhandlers**
  - Third party providing services to airport users, i.e. to airlines.
- **Selfhandlers**
  - Airline or its affiliate directly providing groundhandling for itself, not contracting with third party

## Airports: Essential Facilities Doctrine

|                   | Land side Ground and Self Handling   | Air side Self Handling  | Air side Ground Handling  |
|-------------------|--|---|---|
| Access            | Airport must grant access to all interested providers  | May be restricted by national law to 2 airlines (as is in Germany)  | May be restricted by national law to 2 providers (as is in Germany) |
| Selection Process | General Anti Trust rules apply   | Selection by official tender, consultation with Airport User Committee, max seven years. Airport is a provider without selection process. |   |
| Approval          | Member State may introduce minimum criteria to be met, i.e. sound financial situation, security, environment |   |   |

# Airports: Essential Facilities Doctrine

|                        | Land side Ground and Self Handling  | Air side Self Handling | Air side Ground Handling |
|------------------------|---|------------------------|--------------------------|
| Central Infrastructure | Compulsory usage may be prescribed by airport, access must be granted   |                        |                          |
| Fees                   | May be levied for access to installation based on relevant, objective, transparent, non-discriminatory criteria |                        |                          |

# Airports: Essential Facilities Doctrine

## Group Discussion

What are the advantages and pitfalls  
of groundhandling liberalization?