AVIATION LAW
LEGAL FRAMEWORK IN SERBIA

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Aviation law is one of the fastest developing areas of law. The experience of the team at JPM enables participants in the aviation market to seamlessly navigate numerous regulations governing this area of law. Whether you need an AOC, an operating license, a flight permit or you need legal advice with respect to entering into agreements with other participants in the market, JPM team will provide you with accurate, timely and high quality legal advice.
This brochure provides an overview of the most important issues relating to aviation law,prepared for the benefit of those inclined to learn more about it, and to gather the most important issues in one document which can later be used as a convenient summary for those already familiar with the subject and its legal intricacies.

I Introduction

Aviation law has only recently, in the last three decades, become relevant to greater number of investors. It is important to acknowledge that historically every country had just one airline, hence not many people specialized in this area of law. The end of the 1970s, first in the US and then in other countries as well saw an increase in the number of airlines which resulted in liberalization of landing rights regulations and saw greater number of carriers entering the market. This liberalization culminated in a multilateral agreement establishing the European common aviation area (ECAA). In 2006 Serbia joined the ECAA by signing and ratifying this agreement in 2009, thereby "opening up" its sky. Since then the Serbian air travel market has been expanding, which has brought Serbia numerous advantages not just associated with landing at Serbian airports, but also with respect to flyovers.

Serbia currently has two international airports – Belgrade Nikola Tesla Airport (BEG) and Niš Konstantin the Great Airport (INI), BEG being the most frequently used airport in Serbia, with flights to and from Europe, Africa and the Middle East.

BEG is also the seat of Air Serbia (former Jat Airways) – the national airlines, which has been operating under the name of Air Serbia since 26 October, 2013, having previously been operating as Jat Airways. Air Serbia is also the legal successor of Aeroput, founded on 17 June, 1927. On 1 April, 1947, Aeroput gave way to Yugoslav Airlines, which on 8 August 2003, changed its name to Public Company for Air Transport Jat Airways, subsequently on 28 June, 2008 changing its legal status to Stock Company for Air Transport Jat Airways. Air Serbia has been a member of IATA, the International Air Transport Association since 1961 and of the AEA, the Association of European Airlines, since 1971. It is one of the first airlines to receive the IOSA (IATA Operational Safety Audit) certificate in 2005. Air Serbia operates under IATA code JU 115.

The opening of sky in 2009 triggered the opening of low-cost air travel. Currently flying in Serbia are Hungarian-Ukrainian Wizzair, Lufthansa's Germanwings, Air Berlin, Scandinavian Norwegian Air Shuttle, Fly Dubai, Turkish Pegasus, Greek Aegean Airlines, and as of last year British EasyJet. Although the Republic of Serbia originally intended to increase the number of these companies, after reaching an agreement with Etihad Airways and after formation Air Serbia, BEG significantly increased its airport taxes which brought about a decrease in the number of low-cost flights from this airport. On the other hand, some other airlines have started to fly to and from Belgrade this season. This season, Spanish Vueling (low-cost) and Portuguese flag carrier TAP will offer its services in Serbia. The low-cost carrier market requires alternative airports lowering the cost of travel. Serbia should soon adapt it military airport in Batajnica to the needs of low-cost carriers and start using it for civil air travel. Passengers would be able to fly at even lower costs, since the airport taxes for Batajnica airport would be noticeably lower than for Belgrade Nikola Tesla Airport.

The Serbian Government has envisaged incentives for the Serbian aviation market, and expects these to peak by 2020.

Civil Aviation Directorate of the Republic of Serbia (NSA - National Supervisory Authority)

The Civil Aviation Directorate of the Republic of Serbia is the national regulatory and supervisory authority of the Republic of Serbia (NSA - National Supervisory Authority) for air transportation, operating under the Air Transport Law of the Republic of Serbia and in accordance with EU regulations. As such, it issues certificates for providing air transportation services and verifies whether air transport service providers meet the requirements for providing such services. Its priority is continuous work towards the improvement of conditions necessary for ensuring aviation safety and security in accordance with international standards.

Participants in the air traffic market have dealings with the NSA relating to issuance of approvals for providing air services, as follows:

1. Scheduled air transport operations (confirming flight timetables) of domestic air carriers and foreign air carriers for destinations in the Republic of Serbia;
2. Non-scheduled air transport operations (charter and air taxi flights) of foreign air carriers for destinations in the Republic of Serbia, and domestic air carriers under special circumstances specified by the Air Transport Law;
3. Air transportation of dangerous goods to, from and over the territory of the Republic of Serbia, pursuant to the Law on Transport of Dangerous Goods;
4. Transport of weapons and military equipment by air to, from and over the territory of the Republic of Serbia, pursuant to the Law on Foreign Trade in Weapons, Military Equipment and Dual-Purpose Goods.

Within its competence the NSA of the Republic of Serbia also:
- monitors and evaluates requests from international civil aviation organizations (ICAO, EASA) for the purpose of inclusion in domestic regulations;
- certifies providers of services – airports, air carriers, aircraft and aircraft product design and maintenance organizations, organizations for ensuring continuous airworthiness, centers for aircraft crew training, aircraft registration and issuing certificates of airworthiness, and certificates of verification of airworthiness, noise certificates, flight certificates, etc.;
- determines the airworthiness of aircrafts, issues permits and authorizations relating to airworthiness, maintains a register and record of aircrafts, crew, air carriers, organizations for ensuring continuous airworthiness, organizations for maintenance and aircraft crew training centers, record of airports and airfields and record of terrains;
- supervises the aviation industry by performing inspectional supervision and audits for verifying compliance with regulations, standards and the attained safety level, and creating a safe air travel environment, in compliance with international obligations;
- publishes manuals and technical advice relating to manufacturing, construction, use and maintenance of aircrafts and airports, and aircraft crew training;
- regulatory duties (preparing draft regulations in the domain of civil aviation in compliance with legislative requirements of the Republic of Serbia, undertaken under international obligations and in the interests of domestic aviation industry; providing expert opinions on matters within the competence of the NSA, relating to domestic and international aviation law; monitoring activities in the area of international aviation law development ; analysing options and effects of modern regulatory solutions in order to create an optimal legal; preparing internal rules and shaping the work of experts in all areas of safety and security of civil aviation);
- coordinating cooperation with the European Commission in the interest of proper ECAA agreement implementation.

The NSA strives to directly take part in the work of international aviation organizations through its active memberships. (International Civil Aviation Organization (ICAO); European Civil Aviation Conference (ECAC); European Organization for the Safety of Air Navigation (EUROCONTROL); European Aviation Safety Agency (EASA)).

II Flying to and from Serbia

Flight permits for domestic airlines
In order for a domestic airline to provide air transportation services it needs to obtain two types of permits, or certificates. These are a certificate that the airline is equipped for conducting public air transportation, an Air Operator Certificate (AOC), and an operating license, which presumes that an airline has already obtained an AOC.

AOC - Air Operator Certificate

An Air Operator Certificate–AOC is a document issued by the NSA, which certifies that an airline fulfills specified requirements for providing public air transportation services.
Any carrier seeking to obtain an AOC must have equipment, personnel and organization in place to enable it to safely conduct an intended type of public air transportation, for a period of 12 months. The NSA may, at the request of an AOC holder, renew the AOC for a period of one to three years.

The NSA will amend, suspend or invalidate the AOC if an airline stops fulfilling any of conditions needed for issuing the certificate. Suspension or invalidation of the AOC gives rise to the NSA's obligation ex officio to suspend or invalidate the operating license.
The fee for issuing an AOC is RSD 100,000, increased by variable portion of the fee which depends on the number and category of aircraft to be included in the AOC, and variable portion of the fee which depends on the type of authorization granted by the AOC. The fee for renewing the AOC is 25% of the fee assessed for issuing the AOC.

For an AOC to be issued or renewed, an airline has to:

- have its head office in the territory of the Republic of Serbia;
- be registered for providing public air transportation services as its main business activity;
- provide proof of possessing necessary equipment, personnel, and financial assets for conducting business activity for which it is seeking an AOC;
- provide proof of the appropriate internal organization;
- establish supervision over performance of the business activity for which it is registered;
- provide proof of establishing and maintaining the appropriate quality system;
- submit to the NSA an Operations Manual–OM, including each associated amendment and supplement ;
- ensure that all flights are conducted in accordance with the OM and the terms specified in the AOC;
- ensure aircraft maintenance such that it enables safe air travel;
- establish company training programs for flight and other personnel;
- ensure that the aircrafts are equipped and the crew trained to fly in the specific geographic location, as well as for the flight activities it will conduct;
- possess the necessary equipment and means to enable unhindered operation of personnel and safe conduct of the business activity, depending on the flight type and volume.

The air carrier must appoint an accountable manager in charge of the flight activity, internal organization and finances, who is responsible for proper use and maintenance of aircrafts.

They must also appoint a quality manager responsible for managing quality system and taking corrective measures.

The air carrier must also appoint post holders for:

- the flight activity;
- aircraft maintenance;
- training of aircraft personnel;
- ground activities

The air carrier has to notify the NSA of all changes with respect to responsible persons/post holders no later than 10 days before an intended change; in exceptional cases this period of time may be shorter.

To conduct public air transportation, apart from conditions specified by the Air Transport Law and the Rules on Conditions and Manner of Issuing an Air Operator Certificate, the air carrier has to fulfill the requirements relating to use of the aircraft, contained in the:

- JAR-11. JAA Regulatory and Related Procedures;
- JAR-FSTD A and JAR-FSTD H (airplane and helicopter flight simulation training devices);

The provisions of Temporary Guidance Leaflet TGL 44 and JAR-OPS 3 Section 2 - Acceptable Means of Compliance and Interpretative/Explanatory Material (AMC & IEM), as well as the provisions of other joint aviation requirements (JAR) indicated by the provisions of the Rules will be applied as recommended practice until the regulations governing this matter are enacted.
Finally, the air carrier must also hold a valid insurance policy covering persons and objects being transported, as well as third-party liability coverage.

The air carrier needs to submit an application for the AOC no later than 90 days, and its OM no later than 60 days before intended commencement of air traffic. Applications for renewals of AOCs need to be submitted no later than 30 days before they expire. Applications for amendments of AOCs need to be submitted no later than 30 days before an intended change.

If an air carrier plans a change of structure of ownership or its business activity which will significantly affect is financial capabilities, it must to notify the NSA..

Air carriers holding AOCs have to submit the relevant data relating to financial standing and business activities to the NSA for each business year.

Air carriers submitting an application for renewal of an AOC have to enable the NSA to review all elements based on which the AOC was issued. If the air carrier stops fulfilling any of conditions under which a valid AOC was issued, the NSA may revoke or amend the AOC. An air carrier may have only one AOC, while aircrafts must have valid certificates of airworthiness. The AOC is valid only if the air carrier has an approved aircraft maintenance system.

Operating License

The second most important prerequisite for providing public air transportation services is to obtain an operating license. Thus public air transport may only be conducted by a company holding an operating license (air operator).
Operating licenses are issued to companies which have their head office in the Republic of Serbia, are registered for public air transport and which are wholly or majority owned and effectively controlled by the Republic of Serbia or Serbian nationals, unless otherwise specified by a ratified international agreement, if the company:

- is capable of fulfilling its actual and realistically estimated potential obligations for a period of 24 months from the start of provision of public air transportation services;
- has provided funding for the first three months from starting the public air transport business, sufficient to cover fixed and operating costs according to its business plan;
- is the user, based on ownership, lease or other legal ground, of at least one airplane capable of public air transport and recorded in the Serbian Aircraft Registry;
- has previously obtained an AOC;
- holds insurance against damages to passengers, luggage, mail, cargo and third parties.

A company intending to provide regular air transportation services must have subscribed and paid-in capital amounting to at least EUR 400,000 in dinar (RSD) equivalent, or EUR 200,000 in dinar equivalent if it intends to provide charter air transport.
Exceptionally, a company intending to conduct non-scheduled air transport operations using aircrafts with maximum mass at takeoff less than 10 (ten) tons, or aircrafts with fewer than 20 passenger seats, which does not generate income exceeding EUR 3,000,000 per year in dinar equivalent - does not need to be capable of fulfilling its actual or realistically estimated potential obligations for a period of 24 months from the start of its non-scheduled air transport operations, and need not previously provide funding to cover its fixed and operating costs, but has to prove that it has funds amounting to at least EUR 100,000 in dinar equivalent.

The NSA issues operating licenses to companies that submit an application for issuing an operating license and that fulfill conditions specified by the Air Transport Law and the Rules on Operating Licenses for Public Air Transport. The application is accompanied by a certificate of good standing and proof of financial capacity.
Fulfillment of conditions for issuing an operating license is confirmed in a basic verification procedure.
An operating license is issued for an unlimited period and remains in force for as long as an air carrier continues to fulfill conditions for its issuance.
After 24 months from the issuance of an operating license, the NSA is obliged to verify whether an air carrier still fulfills the conditions necessary for its issuance. It may also, at any time, examine financial operations of an operating license holder, and in any case at least once every 12 months. Holders of operating licenses are obliged to present the NSA with proof of fulfillment of conditions for issuing the operating license at the NSA's request.
If an air carrier stops fulfilling any of conditions necessary for issuing an operating license, the NSA will suspend or invalidate the license. The NSA may also amend the operating license at request of an air carrier.

If an air carrier does not commence conducting public air transportation within six months from the date of issuance of the operating license, or does not conduct already commenced public air transportation for a period longer than six months, the NSA will invalidate its operating license.

The fee for issuing or amending an air carrier's operating licence is RSD 100,000.

2. Flight permits for foreign airlines

Foreign air carriers may conduct international air transport with the Republic of Serbia only if it has an approval to do so.

Approvals are issued by the NSA after obtaining an opinion of the Ministry in charge of traffic matters.
Foreign air carriers submit approval applications for conducting regular air transportation services with the Republic of Serbia, separately for the summer and the winter transportation season, no later than 30 days before the date when the first flight is planned to take place. According to international standards, the winterer flight timetable begins in the last week of October and lasts until the last week of March. These dates are used by airlines to make greater changes to flight timetables, to harmonize flights, and for other operating changes. During the summer period charter flights become relevant as well. Amendments and supplements to applications for approvals have to be submitted no later than 10 days before the date when the first flight according to an amended and supplemented schedule is planned.

Foreign air carriers from countries with which Serbia has a bilateral air transport agreement can submit approval applications for conducting regular public air transport if they have been selected to conduct air transport by the air carrier's country under the provisions of that agreement (except for air carriers from countries signatories of ECAA). This will be discussed in more detail later.
The NSA will approve conducting of international air transport with the Republic of Serbia if the following conditions are fulfilled:

- the applicant has submitted a complete, timely and clear application and attached valid documentation confirming that it is authorized and equipped to conduct the public air transport for which it is seeking approval;
- the traffic rights being the subject of the approval application are in compliance with the ratified international agreement, if applicable;
- it is determined that the air carrier's country approves the use of identical traffic rights in its territory to air carriers registered in the Republic of Serbia;
- the NSA has, by additional verification, confirmed that the applicantapplies aviation safety standards in compliance with standards and recommended practices of the International Civil Aviation Association;
- the Ministry in charge of traffic matters has supplied the NSA with a positive opinion requested for issuance of the relevant approval.
- If it is found based on conducted verifications that it is necessary to restrict or attach conditions to public air transport, such restrictions and conditions are explicitly specified in the approval.

The NSA can reject the approval application of a foreign air carrier for international public air transport with the Republic of Serbia in following cases:

1. if it is determined from the application and attached documents that an applicant is not authorized or capable of conducting public air transport for which it is seeking approval;
2. if it is determined that the use of traffic rights applied for is not regulated by a ratified international agreement, and the operator's country does not approve respective approval applications to air carriers registered in the Republic of Serbia;
3. if additional verification determines that the applicant and country nominating it do not apply aviation safety standards as determined by International Civil Aviation Association;
4. if the Ministry in charge of traffic affairs provides the NSA with a negative opinion.

Bilateral agreements

Concluding bilateral international air transport agreements is the most important form of bilateral cooperation in the field of civil aviation, as these agreements establish the legal framework for conducting air transport between two countries. The Republic of Serbia has concluded around 115 international bilateral agreements (contracts, memorandums, arrangements) in the aviation field.

After obtaining all the necessary licenses and permits from the competent civil aviation authority of an air carrier's originating country, and obtaining a necessary code from IATA, the next step that needs to be taken in order to commence air transport operations abroad is the moment of mutual recognition by the other country's competent civil aviation authority.

An air carrier from one country becomes a recognized air operator authorized to fly abroad based on bilateral agreements concluded between countries, and is premised on exchange of information between civil aviation authorities of parties to a bilateral agreement.

Bilateral agreements give their signatories special rights for the purpose of establishing planned international air traffic on routes specified in a bilateral agreement.

Recognized air carriers of parties to a bilateral agreement enjoy the following rights relating to provision of agreed services for specified destinations: (a) to fly, without landing, over the territory of the other party's country, (b) to land on the territory of the other party's country for non-commercial purposes, and (c) to land on the territory of the other party's country in locations specified in the bilateral agreement, for embarking and/or disembarking passengers, cargo and mail, separately or in combination, in international air transport

According to bilateral agreements, aviation authorities of one contractual party are entitled to notify competent authorities of the other party in writing that they have selected one or more air carriers to perform agreed services on agreed routes. Upon receiving such information, competent civil aviation authority of the other signatory to the bilateral agreement should issue the relevant operating approval to the selected operator(s) without delay. When an air carrier is selected and approved, it can begin providing agreed services at any time, in part or in full.

Each party is entitled to refuse approval or to revoke operating approval or to cease exercising granted rights pursuant to a bilateral agreement or to impose such conditions as it considers necessary for those rights to be exercised: (a) if it has not established for certain that actual ownership and effective control over such air carrier lie with a party or a national of a party, (b) in case of air carrier's failure to observe legal regulations of party guaranteeing a right under the agreement, or (c) if an air carrier is not operating in accordance with conditions specified in the bilateral agreement.

The selected air carrier(s) must obtain the approval of the other party's competent civil aviation authority no later than 30 days before commencing services on routes specified in the bilateral agreement, types of airplanes to be used and the flight timetable. This is also applicable to subsequent changes, while in special cases this period may be shorter, with the consent of the competent authorities.

Certificates of airworthiness and licenses approved or pronounced valid by one party will also be recognized by the other party, for performance of the agreed services. The aircraft used by selected air carrier(s) for performing agreed services, as well as their crew members , have to carry valid documents ordinarily used in international air traffic.

ECAA - European Common Aviation Area Agreement

The legal grounds for integration of the Republic of Serbia into the European Union in aviation field is the European Common Aviation Area Agreement (ECAA), which was signed on behalf of the Republic of Serbia on 29 June 2006, and subsequently ratified by the National Assembly on 13 May, 2009.

This agreement calls for complete harmonization of domestic regulations with regulations of the European Community in fields of aviation safety, security, air traffic management, airport management, protection of passenger rights and other users of aviation services, liberalization of the aviation market, prohibition of state aid, and environmental protection. It is based on the principles of free market access, freedom of establishment, equal conditions of competition, and common rules including safety, security, air traffic management andsocial and environmental regulation.

The initial step towards Euro-integrations in the field of aviation was taken with conclusion of the agreement between Serbia and Montenegro and the European Community relating to certain aspects of air traffic (Horizontal Agreement), which was signed in 2005.

Since ratification of the ECAA in 2009, the Republic of Serbia, at the request of the European Commission, has applied the provisions of Protocol VI of Annex 5 to this agreement at administrative level. This practically means that, although bilateral agreements with most EU countries are still in force, traffic rights have been granted to certain air operators based on the said Protocol which enables full application of the third and fourth freedom rights so that airlines from the EU may conduct direct transport from any point in the EU to any point in the Republic of Serbia.

This request of the European Commission is based on Article 28 of the ECAA which defines the relationship with bilateral air transport agreements and arrangements, specifying that provisions of the ECAA will prevail over relevant provisions of bilateral air transport agreements and/or arrangements in force between Associated Parties on one hand and the European Community, the EC Members States, Norway or Iceland on the other, as well as between Associated Parties.

The ECAA provides for the following transitional periods:

- The first transitional period shall extend from the entry into force of the Agreement until all conditions set out in Article 2(1) of Protocol VI of the Agreement have been fulfilled by the Republic of Serbia, as verified by an assessment carried out by relevant authority of the European Community;
- The second transitional period shall extend from the end of first transitional period until all conditions set out in Article 2(2) of Protocol VI of the Agreement have been fulfilled by the Republic of Serbia, as verified by an assessment carried out by the relevant authority of the European Community.

By the end of the first transitional period the Republic of Serbia shall:

- be a full member of the JAA and shall endeavor to implement all the aviation safety legislation as provided in Annex I to the ECAA;
- apply ECAC Document 30 and shall endeavor to implement all the aviation security legislation as provided in Annex I to the ECAA;
- apply Regulation (EEC) No 3925/91 on elimination of controls applicable to cabin and hold baggage, Regulation (EEC) No 2409/92 on fares and rates for air services, Directive 94/56/EC on accident investigation, Directive 96/67/EC on ground handling, Regulation (EC) No 2027/97 on air carrier liability in the event of accidents, Directive 2003/42/EC on occurrence reporting, Regulation (EC) No 261/2004 on denied boarding, Directive 2000/79/EC on working time in civil aviation and Directive 2003/88/EC on working time as provided in Annex I to the ECAA;
- separate the air traffic service provider and the regulatory body for the Republic of Serbia, establish a supervisory body for the Republic of Serbia for air traffic services, start the reorganization of the airspace of the Republic of Serbia into a functional block or blocks, and apply flexible use of airspace;
- ratify the Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention); and
- have made sufficient progress in implementing the rules on state aid and competition included in the agreement referred to in Article 14(1) of the Main Agreement or in Annex III of the ECAA, whichever is applicable.

By the end of the second transitional period the Republic of Serbia shall apply the ECAA including all legislation set out in Annex I to the ECAA.
The Republic of Serbia is still in the first transitional stage. In order to determine whether it is prepared to move to the second stage, the EC team is likely to arrange a verification visit in not too distant future.

As for the ownership structure of air carriers during the transitional period, the ECAA specifies that Community air carriers shall not be majority owned or effectively controlled by the Republic of Serbia or its nationals and air carriers licensed by the Republic of Serbia shall not be majority owned or effectively controlled by the EC Member States or their nationals.

The ECAA also specifies that Articles 7 and 8 of the Main Agreement (on freedom of establishment) shall not apply until the end of the second transitional period to carriers which are majority owned or effectively controlled by the EC Member States or their nationals and to carriers which are majority owned or effectively controlled by the Republic of Serbia or its nationals from the end of the first transitional period.

The ECAA is subject to ratification or approval by the signatories in accordance with their own procedures. The ECAA will enter into force on the first day of the second month following the date of deposit of the ratification instruments or approval by the European Community and the EC Member States and at least one Associated Party.

All Associated Parties have ratified the ECAA, while ratification of the ECAA by all the Member States is still pending.

III Relationships with other airlines and other market participants

The basic business agreements of an airline are the agreements regulating relationship with airports at which an air carrier lands (so-called slots), agreements with other airlines and agreements with other participants necessary to conduct registered activity of an air carrier.

One of the prerequisites for concluding such agreements is obtaining a IATA designator and 3-letter code which makes an airline recognizable to other airlines and airports. This is acquired through membership in aviation organizations and associations, which will be discussed in more detail later on.

Our national airline Air Serbia is member of two international organizations, the International Air Transport Association (IATA) and the Association of European Airlines (AEA).

Relationships with airports (slots)

Airport slots are the planned landing and/or takeoff time slots with necessary airport equipment and terminals which enabling an airplane and passengers to be received and dispatched. By nature a slot is closest to the notion of "lease", but as opposed to lease agreements, slots are not allocated based on an agreement and are not subject to any usage fees . A slot at an airport is issued by an airport operator.

A slot may be requested for a day, a specific period or an entire season (summer or winter). Negotiations regarding slots take place in advance, so for instance at the end of one winter season slots are agreed upon for the following winter season. Slots are allocated during negotiations which take place by way of e-mail correspondence, and when some progress is made with respect to allocation of slots, the final agreement on allocation is made at a conference in the presence of air carrier representatives.

At airports in non-EU countries slots are allocated by the airports themselves based on guidelines given by IATA. In EU counties slots are allocated in accordance with Community Regulation 95/93 dated 18 January, 1993, on common rules for allocating slots at Community airports. There are also special rules with regard to time restrictions such as the "use it or lose it" rule.

Rules for allocating slots in non-EU countries.

Slots outside of the EU are allocated by the airlines themselves, according to guidelines given by IATA.

The 1944 Chicago Convention on International Civil Aviation represents the general framework under which civil aviation is regulated. Apart from this general document, air carriers conduct negotiations with regard to airport slots.

There are three basic rules regarding slot negotiations:

"Grandfather rights" which can be defined as an air carrier's right to keep a slot previously allocated to it if it used the slot,
"Use it or lose it" rule which can be defined as a rule under which a slot allocated to one air carrier can be allocated to another air carrier if the first carrier is using it less that a specified period of time, and
Right of priority for regular services which can be defined as the right to allocate a slot to whomever plans to use to use it most frequently. Within this rule there are even special sub-rules relating not only to frequency of use, but also to the duration of the service – thus services with longer duration always have priority over services with shorter duration, while daily services will always have priority over services offered fewer times a week.

Slots are allocated among airlines based on the above rules. After the slots have been allocated, airlines may exchange them amongst themselves or one airline may assign a slot allocated to it to another airline to use for a specific season (summer or winter), after which the slot will be returned to it. Exchange or assigning of slots amongst airlines has certain conditions attached – already allocated slots may be exchanged and/or assigned only among air carriers whose aircrafts have the same characteristics. Namely, an air carrier whose aircraft can carry a specific number of passengers may exchange and/or assign its slot only if the aircraft of the air carrier accepting/receiving the slot can carry the same number of passengers, but in any case no more than that specific number of passengers – explained by the fact that slots are linked to ground handling service providers at the specific airport.

In addition, air carriers may change the way they use their own slots. Even though this is not set out in any written rules, practice has shown that trading slots is also an everyday occurrence. This unregulated practice takes place ad hoc, after conferences.

Rules for allocated slots in EU countries

In EU counties slots are allocated in accordance with Community Regulation 95/93 dated 18 January, 1993, on common rules for allocating slots at Community airports. This Regulation applies to all airports designated as "fully coordinated", meaning those airports where demand significantly exceeds the airport capacity. The Regulations also applies to airports in Norway, Sweden, Austria, Finland and Iceland, while the UK i.e. London Heathrow, Gatwick, Stansted, London City and Manchester are considered "coordinated airports" (all other airports in the UK allocate slots in accordance with the rules in effect in non-EU countries).

The basic rules affecting practical arrangements for allocation of slots are:

"Grandfather rights" principle according to which an air carrier possessing and using a slot in one season had priority with regard to the same slot the following season;
Secondary rules adopted by IATA within which a period of use of a slot gives priority over completely new requests for slot allocation;
Creating a slot pool containing completely new slots (if and when possible, depending on the demands and capacities relating to coordinated slots);
Allocating 50% of pool slots to new entrants, unless they request less; and
The condition that air carriers have to use their slots at least 80% of the specified time, or the slots are revoked and added to the slot pool.

Apart from the above general rules applicable to most "fully coordinated" airports, the UK airport operator is legally authorized to allocate airport slots under the 1986 Airport Act; the airport operator is an independent company owned by large UK companies.

According to Article 8a of the Regulation, slots may be:

- transferred by an air carrier from one route or type of service to another route or type of service operated by that same air carrier;
- transferred:
  - between parent and subsidiary companies, and between subsidiaries of the same parent company,
  - as part of the acquisition of control over the capital of an air carrier,
  - in the case of a total or partial take-over when the slots are directly related to the air carrier taken over;
- exchanged, one for one, between air carriers.

The transfers or exchanges referred to above shall be notified to the coordinator and shall not take effect prior to the express confirmation by the coordinator. The coordinator shall decline to confirm the transfers or exchanges if they are not in conformity with the requirements of the Regulation and if the coordinator is not satisfied that: (a) airport operations would not be prejudiced, taking into account all technical, operational and environmental constraints; (b) limitations imposed public service obligations are respected; (c) a transfer of slots does not fall within the scope of the below defined.

Slots allocated to a new entrant may not be transferred as provided for above for a period of two equivalent scheduling periods, except in the case of a legally authorized takeover of the activities of a bankrupt undertaking.

Slots allocated to a new entrant as defined above and may not be transferred to another route for a period of two equivalent scheduling periods unless the new entrant would have been treated with the same priority on the new route as on the initial route.

Slots allocated to a new entrant may not be exchanged for a period of two equivalent scheduling periods, except in order to improve the slot timings for these services in relation to the timings initially requested.

Slot trading

Although there is no official trading of slots for money, or any rule regulating this procedure, such trades have taken place on several occasions over the past few years, mostly at London Heathrow airport. The main problem relating to slot trading is who has ownership rights over slots – ownership is claimed by both the airports, and the air carriers.

Agreements with airlines and their main characteristics

MITA (Multilateral Interline Traffic Agreement)

An airline's flight network is only part of the company's income. An airline can conclude agreements with other air carriers based on which one carrier can sell its passengers tickets for flights of other carriers and have other carriers sell tickets for its flights. The basic agreement covering this matter is a Multilateral Interline Traffic Agreement (MITA) prepared by IATA. These agreements are concluded by e-mail exchange between two airlines that wish to conclude an agreement, after which they notify IATA that they will cooperate based on the MITA. They thereby accept for their relationship to be regulated by the provisions of the MITA.

The MITA regulates the rules of cooperation between two air carriers, including issuing and accepting traffic documents, preparing tariffs and other information necessary for sale and change of traffic documents, unplanned rerouting, air carrier replacement, luggage-related issues, passenger and security demands, invoicing and settling mutual obligations.

If an air carrier wishes to deviate from the provisions of the MITA, or one of the carriers is not a member of IATA, or is a member of IATA but not of the IATA Clearing House, then these airlines conclude a BITA (Bilateral Interline Traffic Participation Agreement) instead of a MITA (explained below). By concluding a MITA an air carrier agrees to accept traffic documents issued by the air carriers with which this agreement has been concluded.

BITA (Bilateral Interline Traffic Participation Agreement)

Bilateral Interline Traffic Participation Agreements (BITA) are concluded between air carriers that are not parties to the Multilateral Interline Traffic Participation Agreement (MITA) or between carriers who are not members of IATA Clearing House. However, there are also cases of air carriers who are members of IATA Clearing house and have concluded a MITA but simply wish to regulate their mutual relationship by way of a Bilateral Interline Traffic Participation Agreement as well.
In the past, BITAs were usually concluded for a period of one year, after which they were renewed, most often by concluding a new BITA. Today these agreements are concluded for an indefinite period/until notice of termination, and even if they are concluded for a fixed term they are not renewed by concluding a new BITA, but by e-mail exchange confirming that the BITA in question will be renewed under the same or changed terms as confirmed between the parties.

Payment between air carriers who are parties to a BITA is not effected directly, but in accordance with the rules of the Revenue Accounting Manual-RAM IATA Clearing House.

IET (Interline Electronic Ticketing)

Interline electronic ticketing (IET) is provided for air carriers who are members of a MITA and BITA. There are no separate agreements which regulate interline electronic ticketing – the entire communication takes place by e-mail exchange. Cooperation is initiated by contact between representatives of the parties, the slot agreement and the technical parameters of the GDS (General Distribution and Reservation Systems).
The speed and cost of reaching a consensus on IET depends on the GDS used by the airlines. If they use the same GDS, reaching an agreement relating to interline electronic ticketing is easier and cheaper (if the air carriers use the same GDS, the charge is around EUR 2000, while if they use different GDS systems the charge is around EUR 6000).

One of the key documents on which the parties need to agree is the General Business Requirements-GBR. The GBR is a mutually accepted document determining the manner, nature, volume and procedure for exchanging data between air carriers.

After agreeing on a GBR, the air carriers continue to P stage. There the carriers agree on testing. Testing has two levels – testing on non-live system and testing in live system, in which both air carriers and their systems take part. After positive results of the live IET testing, the air carriers agree on the date when it will start being applied. This date is the date when the electronic card system will be initiated, after which the air carrier notifies all other systems that the IET has started operating. Some of the existing GDS systems are Galileo, Apollo, Sabra, Wordspan, Abacus, Infini, Axess, Topas, ITA, Amadeus, etc.

SPA (Special Prorate Agreement)

A Special Prorate Agreement (SPA) is an agreement concluded between two air carriers on sale of traffic documents for destinations to which one of the air carriers does not conduct direct transport. The aim of such an agreement is to enable passengers to travel to certain destinations where a specific air carrier does not fly, such that the air carrier transports it passengers on the basis of such an agreement to a destination which will be a transit point, from which the passenger will fly to the desired destination with the other party to the SPA, on the basis of the same traffic document.

The SPA is the second level of cooperation between air carriers and regulates the division of income and the proportional prices of tickets between the two air carriers. An SPA can be concluded only if an Interline Agreement already exists. In other words, an SPA can only be concluded between air carriers that are either signatories to a MITA or to a BITA.

In the past, SPAs were usually concluded for a period of one year, after which they were renewed, most often by concluding a new SPA. Today these agreements are concluded for an indefinite period/until notice of termination, and even if they are concluded for a fixed term they are not renewed by concluding a new SPA, but by e-mail exchange confirming that the SPA in question will be renewed under the same or changed terms as confirmed between the parties.

Every SPA contains a very detailed specification of destinations, RBD, classes and pro-rate fares.
The fares specified in these agreements are lower than the prices of regularly sold traffic documents, and the difference between the regular price and the fares specified in these agreements is retained by the air carrier selling the traffic documents for the other air carrier.

As a general rule, SPAs are not applicable to the participation of third carriers, or to Code-Share flights of the signatories of this agreement. On the other hand, some of these agreements contain a stop-over provision which is an option for the benefit of passengers, to stay for a few days at a specific destination being a point of transit between two flights, in which case the stop-over tariff is agreed in the SPA.

Payment between air carriers who are parties to a SPA is not effected directly, but in accordance with the rules of the Revenue Accounting Manual-RAM IATA Clearing House.

CSA (Code-Share Agreement)

Code-Share Agreements (CSA) are the highest level of cooperation between air carriers (excluding alliances). By a CSA air carriers agree to cooperate so as to treat flights as their own (in other words both air carriers have flight numbers for the flight), while in fact only one of them is operating the flight (as operating carrier). The other airline under the CSA (the marketing carrier) sells traffic documents as if it were operating the flight itself, and the operating carrier is obliged to accept such traffic documents. The method of concluding a CSA presumes that the parties agree on the main principles of cooperation in the wording of the agreement, while the details of the flight numbers, the routes on which it is applied, the days and times of operation and the marketing carrier's available number of seats are agreed by an Annex concluded at the beginning of each IATA season.

There are three types of CSA - hard block, soft block and free flow. A hard block CSA is a CSA in which the operating carrier and the marketing carrier agree on the number of seats available to the marketing carrier to sell, and the marketing carrier has to pay the operating carrier for these seats regardless of whether they are sold or not. With a soft block CSA the marketing carrier also has a specified number of seats available for sale, but it can return the unsold seats to the operating carrier. The deadline for returning the seats is usually 24 hours before the flight. The marketing carrier has to pay the operating carrier only for the sold or unreturned seats. A free flow CSA presumes that both parties are free to sell the seats, and the marketing carrier only pays for the seats it has sold.

BSP (Billing And Settlement Plan)

The BSP is a system for selling transportation of passengers and cargo which is aimed at simplifying the procedure of sale of passenger and cargo documents, preparing reports on effected sale and facilitating the transfer of money. Parties to a BSP are air carriers and IATA agents (the BSP is within IATA's scope of competence).

The BSP card is universal and used by all air carriers who are members of IATA, and issued by IATA agents. The content of a BSP card is defined by the relevant IATA decision and is standardized. A BSP card does not contain details on the air carrier, but only the relevant IATA details. The BSP system operates though: (a) the Data Processing Center (DPC) and (b) the BSP bank – Clearing Bank.

Every airline which is a member of IATA automatically takes part in the BSP of the specific country or region, which is applied to all IATA agents. In countries where the BSP system is operational, agents – members of the IATA system can issue only Standard Traffic Document-STD (BSP) cards, as a type of independent traffic document.

The procedure for becoming a member of the BSP system is quite simplified and includes supplying the BSP with all necessary information and payment instructions under the selling conditions of the BSP, as well as signing beneficiary instructions by the air carrier joining the BSP system. Membership fees for the BSP system can vary from country to country, and range from USD 1,000 to USD 25,000.

IATA agents may sell BSP cards only after fulfilling certain conditions, such as holding a IATA license which is issued after verification of fulfillment of the additional IATA requirements, and holding insurance or issuing a bank guarantee. The BSP system is internet-based, which enables interaction and exchange of information between the participants in the BSP.

ZED (Zonal Employees Discount Agreement)

Zonal Employees Discount Agreements (ZED) are agreements based on which airlines offer their employees discounts on flights of the other airline which is a party to the agreement. Similar to a MITA, the method of concluding a ZED presumes that the airlines conclude a ZED Concurrence Form, which defines the basic elements of their cooperation, while all other issues are covered by the provisions of the ZED model agreement.

BIBA (Bilateral Interline Business Travel Agreement).

Bilateral Interlining Business Travel Agreements (BIBA) have the same purpose as a ZED, the only difference being that they are concluded for business trips of employees of air carriers.

Agreements with other participants and their main characteristics

Ground handling services

By way of an agreement on ground handling services an airline engages a company to provide ground handling services at the airports to and from which the airline flies. The principle for concluding and implementing such agreements is as follows – IATA adopts a Standard Ground Handling Agreement, and Annex A to this agreement contains a list and description of the specific services. Then the airlines and ground service providers conclude Annex B to the Standard Ground Handling Agreement by which they define the location, i.e. the airport(s) where the agreement will be applied, the exact list of services from Annex A which the parties have agreed will be provided (and potential exceptions, clarifications and notes relating to the agreed services), and the fee for this service.
Ground handling services include:

- Administrative and supervision services which include representation and liaising with local authorities or other subjects, effecting payments on behalf of the carrier and securing business space for the representatives of the carrier; supervising loading, dispatching and receiving messages and telecommunications; handling, safekeeping and administrating loading equipment (containers and palettes); all other supervision services before, during and after the flight and other administrative services at the request of the carrier using the airport;

- Passenger services which include all types of assistance at arrival, departure, transfer or transit, including ticket and travel document checks, registration of hand and checked-in baggage, and transfer of the baggage to the sorting area;
- Baggage handling services which include handling the checked-in baggage in the sorting area, preparing the baggage for dispatch, loading and unloading the vehicles or equipment used to transport the baggage from the aircraft to the sorting area and vice versa and transporting the baggage from the sorting area to the baggage claim area;
- Main and cargo services;
- Airplane ramp receipt and dispatch;
- Airplane services including interior and exterior cleaning of the aircraft, sanitation duties (toilets) and water supply, cabin heating and cooling, snow and ice removal, deicing the aircraft, rearranging the passenger cabin by means of suitable equipment and storage of such equipment;
- Fuel and lubricant supply services;
- Aircraft maintenance services;
- Preparing the flight and services for the crew which include flight preparation at airport of departure or some other location, in-flight services, including flight rerouting if necessary, after-flight activities, crew administration;
- Ground transportation services which include organizing and transporting the crew, passengers, baggage, mail and cargo between different gates at the same airport, excluding the same transport between aircrafts and any other location within the area of the same airport; and
- Catering services for the aircraft.

Ground handling services can be provided by the airport operator, a company, legal entity or entrepreneur authorized to provide ground handling services. Again, the NSA is in charge of issuing such authorization, i.e. permit, and in order to obtain it the service provider has to fulfill the organizational, financial, technical, technological and personnel requirements specified by the NSA. Permits for providing such services are issued for a period of 8 years. The permit will be invalidated at the request of the permit holder, or if the permit holder stops meeting the requirements for issuing the permit, and if the permit holder is providing ground handling services – when despite being warned by the NSA it continues to provide services in an unfair or discriminatory manner or fails to act in compliance with the principles of operation of public services, including violating the obligation of properly ensuring continuous provision of services.

Another important thing in this segment which is also prescribed by the Rules on Access to the Ground Handling Services Marker is that this market must be open to all companies holding permits for providing these services. The ground handling services market exists and is open at airports whose annual turnover exceeds 2 million passengers or 50,000 tons of cargo, as already mentioned. However, the NSA may, at a specific airport with annual turnover exceeding 2 million passengers or 50,000 tons of cargo, restrict the number of ground handling service providers, but in any case to no fewer than two, with regard to the following services: receipt and dispatch of checked-in baggage; airplane ramp receipt and dispatch; airplane fuel and lubricant supply; mail and cargo services, in the part relating to physical handling on arrival, departure or transfer between the cargo gate and the aircraft. In that case at least one service provider entitled to provide the services cannot be directly or indirectly under the control of the: airport operator; a carrier-user of the relevant airport which has transported more than 25% of the passengers or cargo in the year preceding the year in which the service providers were selected; entities directly or indirectly controlled by/controlling the airport operator or airport user.

The ground handling service provider is selected by the NSA or airport operator after consulting the Council of air carriers who use the relevant airport, depending on whether the number of service providers is restricted or not. This is done by public tender, and the best bidder then signs an agreement with the airport operator.

GSA (General Sales Agency Agreement)

By a General Sales Agency Agreement (GSA) an air carrier selects the company that will be its sales agent for a specific country, several countries or region within one country. This type of agreement is characteristic in that is it concluded for a longer period of time, while the method of concluding this agreement presumes that an air carrier and agent conclude a GSA at the beginning of their business cooperation, while during the cooperation they conclude a Confidential Addendum at the beginning of every IATA season.

IV Associations - IATA and AEA

IATA - International Air Transport Association

The International Air Transport Association is an international trade association of airlines with headquarters in Montreal, Canada. IATA is the most important international association of air carriers, and therefore most regulations and rules have been adopted by this association. IATA gathers around 240 airlines from 115 countries, which represent 84% of the total volume of international air traffic. It is currently present in more than 150 countries that are covered by 101 representative office. The main goal of this organization is to ensure safe and secure transport to its passengers, and its mission is to represent, lead and serve the airline industry.

One of IATAs most prominent activities is to assign codes which are used throughout the world and are an integral part of the travel industry. IATA codes are essential for the identification of an airline, its destinations and its traffic documents. They are also fundamental to the smooth running of hundreds of electronic applications which have been built around these coding systems for passenger and cargo traffic purposes.

There are three code systems:
Two-character designator of a specific airline (eg. JU = Air Serbia)
3-numeric Airline accounting & prefix code for traffic documents (115 = Air Serbia)
Three-character airport code, i.e. location identifier code (BEG = Nikola Tesla Airport, Belgrade)

IATA airline codes, sometimes called IATA reservation codes, are two-character codes assigned by IATA to world airlines. The standard is described in the IATA twice-yearly publication called Standard Schedules Information Manual, and also partially provided for by IATA Resolution 762.

Codes are used to identify air carriers for all commercial purposes – reservations, timetables, tickets, rates, bills of lading/dispatch notes, published flight schedules and telecommunication between airlines, as well as for the aviation industry.

According to the said Resolution, the code designating an airline is not considered the property of the airline. When the airline stops meeting the requirements for assigning the code, the code is revoked, and may be reassigned after 60 days from the date of revoking.

IATA may issue “controlled duplicates” which are issued to regional airlines whose destinations are not likely to overlap, in such a way that the same code would be shared by two different airlines.

According to Resolution 762, during the interim period (which is not clearly defined),, two-character designators may be duplicated in a controlled environment. The same code will not be duplicated if the companies:

- publish passengers schedules; or
- publish cargo schedules; or
- participate in the industry shared telecommunications facilities except under Banding as in RP 1008; or
- at the time of assignment, it is known by IATA that the companies serve the same general geographic area.

In the event that one of the companies with a duplicated designator changes it status, and falls into one of the criteria listed above, the company which had the designator first shall continue to have the use of the code and IATA will change the designator of the other companies which shared the designator. If an airline has nominated a predesignated point the airline’s two-character designator will not be duplicated.

An IATA airport code, also known an IATA location identifier, is a three-letter code designating airports around the world, defined by IATA. The characters prominently displayed on baggage tags attached at airport check-in desks are an example of a way these codes are used. The assignment of these codes is governed by IATA Resolution 763. The codes are published twice a year in the IATA Airline Coding Directory. IATA ATA also provides codes for railway stations and for airport handling entities.

IATA has also played a key role in the global accreditation of travel agencies, with the exception of the USA, where this was performed by the Airlines Reporting Corporation. Permits for sale of air travel tickets by air carriers that take part in the traffic are acquired through national member organizations. Over 80% of airplane ticket sales takes place through accredited IATA agents.

One of the more significant advantages to membership in IATA and the IATA settlement system is membership in IATA Clearing House. Membership in IATA Clearing House enables air carriers to settle their mutual obligations arising from business agreements, such as the Multilateral Interline Traffic Agreement (MITA), Bilateral Interline Traffic Agreement (BITA), Interline Electronic Ticket (IET), Special Prorate Agreement (SPA), Code Share Agreement (CSA), etc. The procedure regulated by the IATA RAM-Revenue Accounting Manual simplifies the settlement of mutual obligations between air carriers, enabling them to not make payments directly to another air carrier with which they cooperated on various grounds. An air carrier, instead of directly paying another air carrier it cooperates with, prepares weekly statements of accounts receivable from each carrier and submits these statements to the relevant air carrier and to IATA Clearing house. IATA Clearing house then carries out the clearing, and if the air carrier is found to have more accounts receivable than payable towards other air carriers, it will receive the balance. If, however, it is found that its accounts receivable owing from other air carriers are less than its accounts payable towards them, it will have to settle the balance.

The weekly statements should include all accounts receivable due for payment that week, but they can also include due past accounts receivable. Namely, when one air carrier sells a traffic document for the flight of another air carrier, its debt towards that air carrier is due for payment after the flight has taken place. The air carrier that operated the flight has a maximum of 5 months to include that sum in its accounts receivable. If the owing air carrier does not agree with the stated owed amount it can send the other air carrier a rejection memorandum no later than within 6 months from the date of the billing (first reversal). After the first reversal, the issuing air carrier may object to the first reversal no later than within 6 months of the date of receipt of the first reversal statement (second reversal). The refusing air carrier may, within a further 6 months, once again reject the second reversal (third reversal). After the third reversal, the air carriers may initiate correspondence with the goal of resolving their differences. If they do not succeed to resolve their differences in the correspondence stage, the final instance is IATA arbitration. In practice airlines manage to reach an agreement on their mutual debt in the correspondence stage at the latest, and very rarely resort to resolving their differences through IATA arbitration.

Membership in IATA with full rights and privileges may be acquired only after:

- a conducted IATA Operational Safety Audit-IOSA;
- administrative review by the Membership Department; and
- payment of all application fees and membership dues.

A IATA Operational Safety Audit-IOSA is an internationally recognized and accepted evaluation system designed to assess the operational management and control systems of an airline.
ATA oversees the accreditation of Audit Organizations and Endorsed Training Organizations, ensures continuous development of the IOSA Standards and Recommended Practices and manages the central database of IOSA Audit Report.

IATA also implements effective quality assurance to ensure overall program standardization and ensures that the program is meeting airline needs as effectively as possible.
Successful completion of an IOSA will result in addition to the IOSA registry. A list of all IOSA registered airlines is available at www.iata.org/registry.

Association of European Airlines (AEA)

The Association of European Airlines is a non-profit industry organization with headquarters in Brussels, Belgium, bringing together 30 major European airlines, striving to be “the trusted voice of the European airline industry for over 50 years” AEA strives with its members and, wherever possible, with the entire aviation chain to ensure sustainable growth of European aviation.

Based on its extensive knowledge of the industry, AEA is an essential platform for industry, and is relied upon by policy-makers and the media as a trustworthy contributor to the debates around the decision-making process. AEA works in partnership with the institutions of the European Union and other stakeholders in the value chain, to ensure the sustainable growth of the European airline industry in a global context.

AEA gives its members the support they need to focus on their businesses and make them thrive, by following all aero-political issues, analyzing their impact, recommending strategies, networking with all relevant stakeholders and defending the airlines’ interests in the legislative process.

Over the years, AEA has developed a strong reputation as an authoritative voice in its dealings with other industry stakeholders, from European officials, national civil servants, European and national media, as well as other international organizations and air transport-related associations.

This outstanding network enables AEA to co-ordinate expertise and to implement proactive advocacy and communication strategies aimed at the European Commission, the Parliament and the Council, seeking to encourage the adoption of measures favorable to healthy and sustainable growth of its member airlines.

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