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www.klgates.com

Authors:

Dr. Frank Thomas
frank.thomas@klgates.com
+49.69.945.196.270

Eiko L. Grieger
eiko.grieger@klgates.com
+49.69.945.196.275

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Update on the registration of foreign aircraft owners into the register of German aircraft (*Luftfahrzeugrolle*): New process agent requirement.

Foreign entities can be registered as aircraft owners in the register of German aircraft (*Luftfahrzeugrolle*) in accordance with sec. 3, paragraph 1 of the Act on Air Transport (*Luftverkehrsgesetz*; "**LuftVG**") and the exemption stipulated in sec. 3, paragraph 2 of the LuftVG. Up to now, compliance with such requirements was achieved by providing a so-called "Company's letter" in which the owner confirmed, among other things, compliance with the requirements under the LuftVG (e.g. that the aircraft is leased to a German operator for a period of at least six months).

According to the LBA, difficulties have occurred in the past with foreign owners who could not be reached properly by mail. This is the background for the newly introduced declaration forms and the process agent requirement, which are not triggered by any change in law but introduced for practical reasons.

Registration as owner of entities established under the laws of the European Union

In principle, legal entities can be registered as aircraft owners in the register of German aircraft if they have their business seat within the Federal Republic of Germany, which shall be evidenced by a commercial register excerpt (sec. 3, paragraph 1 of the LuftVG). Entities that are not able to comply with this requirement, but are established and head-quartered in one of the member states of the European Union (other than the Federal Republic of Germany), will now only be registered in the aircraft register if they have appointed a process agent in Germany. This process agent has to deal with all correspondence directed to him on behalf of the owner by the LBA. The process agent must be resident in Germany.

The appointment of a process agent needs to be evidenced by filing the applicable new LBA declaration form in original form to the LBA. The process agent himself also needs to confirm acceptance of his appointment on this form. A change of the process agent or any changes in the contact details need to be reported to the LBA without undue delay.

Registration as owner of entities established under the laws of a state outside the European Union

According to sec. 3, paragraph 2 of the LuftVG, exemptions from the requirements of sec. 3, paragraph 1 of the LuftVG – as stated above – are allowed if specific circumstances can be demonstrated. Such circumstances particularly arise if an aircraft will be leased from an owner that is established under the laws of a state outside the European Union, provided the following requirements are met:

- Lessee as operator and keeper (*Halter*) needs to be a German legal entity with a valid operating license;
- The aircraft (i) is leased for a period of at least 6 months, (ii) has its location at an airport in Germany, and (iii) can be seen regularly at such location;
- The owner has proven his ownership by providing original documents or copies certified by a notary according to the requirements made by the LBA; and
- The owner has declared in writing that he is fully aware of his obligations according to the LuftVG and that the fees for registration of the aircraft can be collected from the keeper.

The owner needs to declare his compliance with these four requirements by filing one of the new declaration forms in original form. The form further includes the declaration that the owner is fully aware of the fact that he will be deleted from the register of German aircraft as owner if one or more of the requirements listed in numbers one through three above no longer apply. The owner is also obliged to inform the LBA of all relevant changes without undue delay.

It is remarkable that in the case of an entity established under the laws of a state outside the European Union, the appointment of a process agent is currently not necessary. The LBA seems to be satisfied with the declaration of the owner that the fees for registration can be collected from the keeper, which is required to be a German legal entity in the scenario where the aircraft is owned by and leased from a non-EU entity.

The respective declaration forms need to be filed in addition to all other documents required for registration of a new owner. This comprises the initial registration of an aircraft as well as the registration of a change of ownership after title to an aircraft already registered in the register for German aircraft has been transferred to a new owner.

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