



EGYPT

1. Which government authority in your country has primary responsibility for the regulation of aviation and the registration of aircraft?

The Ministry of Civil Aviation and the Egyptian Civil Aviation Authority (“ECAA”).

2. Can foreign-owned aircraft be registered on your national aircraft register, for example when leased to an airline based in your country?

Yes, provided that the lease is for a licensed national airline.

3. Are there any limits/restrictions on the age of the aircraft that may be registered or operated in your country?

Yes. For an aircraft to be registered in the national aircraft register its age cannot exceed 10 years from the date of production in case of aircraft whose weight is less than 5,700kg at takeoff, 17 years in case of aircraft whose weight is above 5,700kg at takeoff, and 20 years in case of cargo aircraft whose weight is above 5,700kg at takeoff.

4. Who is entitled to have their interests recorded on your national aircraft register?

The certificate of registration of an aircraft specifies the name of the aircraft owner as an owner and the operator (lessee/sublessee) as the possessor of the aircraft.

Any person with an interest on an Egyptian registered aircraft is entitled to have its interest recorded on the national aircraft register.

5. Would a mortgage governed by a foreign law over aircraft and/or engines be recognised in your country?

Yes, a mortgage governed by a foreign law over aircraft and/or engines is recognized in Egypt. However, if the mortgage is governed by a foreign law, there are certain Egyptian public law issues that will apply to that mortgage for example, the interest due on the loan secured by the mortgage cannot exceed 12% per annum and enforcement on the aircraft must be conducted in accordance with the rules set forth under Egyptian law.

6. To be recognised under your laws, must a lease or mortgage over an aircraft and/or engines be in a particular form or language, are there any special terms that it must contain and/or must it be registered or filed anywhere?

In general, any document submitted to an Egyptian authority or court of law for filing, registering or enforcing same, must be translated into Arabic. Such translation may be done either through a certified translator or, with respect to certain documents such as powers of attorney, by the translation department of the Ministry of Justice or by the translation department in the Ministry of Foreign Affairs. As an exception, any documents that will be submitted for notarization, filing, registration or enforcement before the ECAA must be either in English or Arabic (or translated into English or Arabic). Such translation must be notarized and legalized up to the level of the Egyptian Consulate in the country of issuance of the original document in the event the documents will be deposited with the ECAA. As a matter of practice, however, the ECAA sometimes requests an Arabic translation, even of English documents, for guidance. Recently, the ECAA stopped requesting such informal translation.

For purposes of registration of a lease, it must contain certain information, including, but not limited to the term of lease, the rental value, the aircraft registration numbers, the type of aircraft, the number of engines, the airframe number, the date of manufacture and the name and address of the manufacturer, together with the owner's name, business and place of business, subleasing terms, insurance, events of default, applicable law and jurisdiction.

For purposes of an aircraft mortgage, it must contain the value of the secured debt. Additionally, the Egyptian operator must acknowledge the aircraft mortgage hence the Egyptian operator signs the registration minutes of the aircraft mortgage.

All documents related to aircraft in Egypt are registered with the ECAA which acts as the notary office with respect to any aircraft related matters.

7. If an engine owned by a third party is installed on an aircraft, would your country's law treat that engine as being subject to the same ownership as the aircraft itself? In other words is there a risk that by physical installation, the engine owner loses its title to the engine or that the engine becomes subject to any mortgage which exists over the aircraft on which it is installed? Would a nameplate fixed on the engine, confirming its separate ownership, make any difference?

Yes; since the definition of an aircraft under Egyptian law includes all parts including engines that are installed on the aircraft. However, if there are documents that can prove that the engine is not owned by the owner of the aircraft, this could be taken as evidence of ownership by a third party. Further, a nameplate fixed on the engine confirming its separate ownership will help but should not be the only exclusive evidence.

The national aircraft register does not have a separate register for engines.

8. Has your country ratified and brought into force any of the following aviation related conventions: 1944 Chicago Convention, 1948 Geneva Convention and 2001 Cape Town Convention (with its Aircraft Equipment Protocol)?

Yes, for the 1944 Chicago and 1948 Geneva Conventions;. As for the 2001 Cape Town Convention (with its Aircraft Equipment Protocol) they came into force on 1 April 2015 but the ECAA has not yet commenced implementing it. To our knowledge also, there is no precedent indicating how an Egyptian court may rule on the application thereof.

9. Does the local civil aviation authority provide assurances to lessors and financiers as to prompt deregistration of the aircraft (for example the IDERA under the Cape Town Convention)?

The ECAA allows conventional deregistration powers of attorney to be registered with it and their use for deregistration purposes. It also allows registration of the IDERA under the Cape Town Convention provided that the following disclaimer is included: *"We acknowledge that the provisions in the Cape Town Convention and the Protocol to the Convention on International interest in Mobile Equipment on Matters Specific to Aircraft Equipment relating to recognition of Irrevocable Deregistration and Export Request Authorizations have not yet entered into effect in the Arab Republic of Egypt. The Egyptian Civil Aviation Authority shall recognise this instrument once the relevant provisions are effective in the Arab Republic of Egypt."* In this respect, the ECAA would recognise the effect of IDERA once the Cape Town Convention is effective.

However, the ECAA does not provide any further assurances with respect to prompt deregistration of aircraft.

10. Are powers of attorney from a local airline in favour of a lessor or mortgagee likely to be effective to allow the lessor or mortgagee to deregister the aircraft? Can such powers be irrevocable, be governed by a foreign law and/or do they need to be in any particular form for local recognition?

Yes. Nevertheless, if there are outstanding debts due to public authorities/entities/companies, the ECAA usually does not deregister aircraft before the settlement of such outstanding public debts.

The courts will recognize powers of attorney if registered and duly notarized. Deregistration powers of attorney must be notarized by and deposited with the ECAA. There are no specific forms for such deregistration powers of attorney and they could be governed by a foreign law. If the deregistration power of attorney was irrevocable, it would be enforceable against the lessee

and cannot be revoked by the lessee. In principle, an irrevocable power of attorney is not subject to revocation but in case of a dispute, the lessee may seek a court judgment revoking same.

11. Are there any charges which would have to be paid before an aircraft can be deregistered from your national register (e.g. local air navigation fees)?

An administrative fee amounting to EGP 3,000 is required for deregistering an aircraft. Also, in our experience, the ECAA does not deregister the aircraft prior to payment of public debts such as local air navigation fees.

12. Would courts in your country generally uphold a choice of law and jurisdiction clause in an aircraft lease or loan document entered into between commercial parties?

Yes, the courts generally uphold a choice of law and jurisdiction clause. However, applying foreign law and jurisdiction may prove to be difficult due to the absence of treaties which has a negative impact on enforcement. Therefore, in many cases it is preferable to use arbitration as the dispute resolution mechanism.

13. If the lease is terminated for lessee default, would the lessor be entitled to repossess (by taking physical possession) of the relevant aircraft or engine or does it need the prior permission or order of a local court or agency?

In Egypt, there is no “self-help” remedy and accordingly in absence of co-operation by the lessee, the lessor will need to obtain a court order. However, in recent years many lessors were able to repossess aircraft, deregister and export them from Egypt using the conventional deregistration powers of attorney.

14. In clear cases of a lessee default is there an effective summary procedure or interim relief available in your courts allowing lessor prompt repossession of the aircraft? Would security be required to avail of such process?

In general, summary procedures and interim relief measures are available under Egyptian law, although they are difficult to obtain from Egyptian courts.

15. What is the procedure for a lender to enforce a mortgage over the aircraft or engine in your country when the borrower is in default? For example must the aircraft be sold by the court or can the lender itself take possession and arrange a sale?

The mortgagee must first issue a summons on the mortgagor calling upon the mortgagor to pay its debt. The mortgagee may then proceed with the expropriation and sale of the mortgaged aircraft. This involves petitioning the court to attach and sell the aircraft. The judge may conduct a summary investigation before issuing an attachment order. The judge is required to give his decision (*ex parte*) within three (3) days from the date of the petition. If challenged, however, the normal court process could be expected to take around one (1) year. A repossession procedure can prove to be difficult and can take up to two (2) years.

16. Do the courts in your country have experience of repossession / foreclosure action involving aircraft? If so, please provide some details and indicate the time such proceedings generally would be expected to take from start to finish.

Yes. The owner/lessor must first issue a summons on the lessee calling upon the lessee to rectify the event of default. The owner/lessor may then proceed with the repossession of the aircraft in accordance with procedures similar to the ones referred to in (15) above.

17. Where an aircraft is leased to (i.e. not owned by) the airline operating it, can that airline create liens or encumbrances over the aircraft for example if it fails to pay suppliers, airport charges or maintenance providers? If so, would the existence of any such liens (e.g. in respect of unpaid airport charges) prevent an owner or mortgagee from repossessing the aircraft?

Yes. For instance, there are liens or encumbrances with respect to the maintenance of aircraft or airport charges if the aircraft is in the possession of the maintenance facility or an airport authority, the possessor of the aircraft may be able to prevent the aircraft from repossession. Moreover, the ECAA has the right to retain an aircraft to secure payment of any outstanding dues

to the ECAA, any fines imposed for violation of navigation regulations and the expenses of removing a wreck of the aircraft. There are a number of sovereign and preferred debts which are afforded priority by law over other debts. We will be happy to provide further details if needed.

18. Are there any circumstances under your country's laws where a non-operating lessor, owner or a mortgagee could be held liable for damage caused by the aircraft whilst operated by an airline, even if there is no fault on the part of lessor, owner or mortgagee?

No. The lessor, owner or a mortgagee would not be strictly liable for the action or inaction of the lessee in respect of the operation of the Aircraft; the liability falls on the airline in physical possession of the Aircraft. The Egyptian Civil Code states that whoever is in charge of a machine or equipment is liable for damage caused by it, unless the airline shows that the damage was caused beyond its control. Therefore, the lessor, owner or a mortgagee will not be held responsible for the action or inaction of airline in respect of the operation of the aircraft.

19. Are there any legal requirements in relation to insurance and/or reinsurance of an Aircraft registered in or operated to/from/within your country? For example is there a minimum liability insurance amount required and must some or all of the cover be taken out with local insurers?

Yes, insurance over property located in Egypt or liabilities arising in Egypt are to be placed with local insurance companies. There is no minimum required to be covered by local insurers. As to reinsurance, it is common to have the aircraft reinsured in the London market.

20. Are there any other specific issues arising under your country's laws that you feel a lessor or financier of aircraft or engines ought to be aware of when considering whether to lease or finance an aircraft to be based or registered in your country?

The ECAA exercises a wide discretion in the process of repossession and deregistration. Repossession may need to be effected through courts and whilst more deregistrations were successfully done under conventional deregistration powers of attorney, the authorities did not allow the aircraft to be repossessed and deregistered without the payment of outstanding dues on the aircraft to the public entities working under the auspices of the Ministry of Civil Aviation.