

PROCEDO-LEGAL PROCESSES FOR ESTABLISHING AN AVIATION COMPANY

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Doing business in Slovakia begins to evolve very rapidly. The establishment of the airline as a business entity in itself means putting together many acts, both administrative and legal. The thesis aims at presenting the issue of establishing an airline in terms of the procedural rule. The work is divided into seven chapters. The last chapter is devoted to certification which is major requirement if some company wishes to operate in the field of air transport.

K e y w o r d s: airline, legal form of business, certified air carrier, air carrier license.

1 INTRODUCTION

The strong desire to fly like a bird, soar high above the horizon and see the world from so-called bird's eye view, is as old as mankind. The peoples' desire to fly has been present from the very beginning of our history.

Air transportation is an integral part of transportation system of any developed country. As part of the infrastructure involved in the providing conditions for the overall development of the economy, facilitating the development of international, political, economic, cultural and sports relations, it is one of the cornerstones of the international division of labor. Due to these unstinting efforts to fly, not only aviation technology but also methods facilitating it to people developed over the course of the years. People with substantial funds to buy aircrafts purchased them and since mammon has dominated and controlled people since eternity, they began to use the aircraft for commercial purposes with the prospect of great financial gain.

The first airline in the world was called DELAG – abbreviation of German "Deutsche Luftschiffahrts-Aktiengesellschaft" we could translate as "German transportation company using airships". The company was established on 19th November, 1909. It was transporting people using German-built Zeppelin airships. The headquarters was based in Frankfurt. Later on other companies were founded, such as KLM, Quanta and Avianca.

Among the oldest airlines in Europe we count the CSA company based in 1923 named "Czechoslovak State Airlines". With the gradual development of aviation and aviation regulations after war, other airlines appeared. Many of them were successful and gained their share of the

shipping market, others failed due to some problems - however this led to founding of other companies. This article discusses ways of how to establish a Slovak airline, what legal and administrative steps need to be completed.

2 FORMULATION OF SOLVED PROBLEMS

Establishment of an airline is a relatively complicated process. This can already be sensed from the very words "establishment" or "creation" these could be translated as "put the basis of something, create, establish, and build." The process of setting up an airline requires considerable time and a good knowledge of law and legislation for the successful incorporation into the Commercial Register, but sometimes it might be too difficult a task for many lawyers, especially if the company has several partners, both legal entities and individuals, and if the company is required to establish voluntary bodies such as clerk holding the power of procuration.

Another problem might arise if the company is founded by several partners and some of them are foreigners; in such case it is absolutely necessary to use help of lawyers.

Simply put, in order to achieve the desired result, it is necessary to complete a comply with a lot of bureaucratic operations, where the sequence must be maintained.

3 AIRLINES IN SLOVAKIA

Many airline companies have existed in Slovakia, over the years. One of the longest-operating airline companies on the Slovak market is Czech Airlines. The company is the national airline of the Czech Republic. Its headquarters are located at Ruzyne airport in Prague. It operates scheduled flights to many European cities, destinations in North Africa and Western Asia. The portfolio of services also operates charter flights. The vast majority of airlines operating in Slovakia consist of low cost airlines.

The list of air carriers operating at various airports in the early period:

Košice Airport

- Ryanair
- Austrian Airlines
- Czech Airlines

Airport Poprad-Tatry

- Czech Airlines
- EuroLot

Airport Sliač

- Samaire
- BulgariaAir
- Travel Service Airlines

Piestany Airport

- OPERA JET

Žilina Airport

- Czech Airlines

Bratislava Airport

- Ryanair
- Danube Wings
- UTair Aviation
- EIAL
- ABS Jets
- OPERA JET
- Travel Service Airlines
- VIP BIZ JET
- SAYEGH EUROPE AVIATION

4 AIRLINE AND LEGAL FORM OF AIRLINE

“Before the idea to create an airline company is born, we need to clarify what an airline is, what services does it offer, what is the legal status of the undertaking, if there any possibilities of cooperation and if so, how to cooperate. It is very important before launching any effort to establish a line of business, i.e. on what area will the company focus and if it intends to transport passengers, it is necessary to clarify all related liabilities. Cargo carriers also need to know all the specifics of the contract of carriage. The same applies for other types of aviation businesses.

Airline could be defined as an enterprise whose main mission is to provide air transport on national but also international level. Responsibility of the airline is to apply and respect the rights and obligations in international air transport, which have been delegated to the country. Formation, dissolution but also creating the organization and its structure needs to comply with national legal laws and regulations. Airline are mostly based by legal entities that operate scheduled air services; several individuals can also create an airline - in this case the founders are mostly owners of aircraft or other equipment related to aviation.

4.1 Legal form of airline organization

Each airline shall have its legal form of organization. Legal organization form is specified by state – it is aimed at ensuring that the airline will carry out their business activities.

In terms of territory legal forms can be divided into two groups:

- Anglo-American, which defines the corporation or company,
- Continental European, that defines a joint stock company or limited liability company.”[1][2]

5 THE AIR CARRIER AND LICENSING OF AIR CARRIERS

The air carrier

“It is usually a separate company that operates airplanes to transport passengers, cargo and mail for remuneration. Due to security requirements, other regulatory restrictions and licensing requirements must comply with requirements for professional financial standing, internal procedures and organization.

Carriers can carry out these types of air transportation:

- a) Domestic scheduled air services,
- b) Domestic non-scheduled air transport
- c) International scheduled air services,
- d) International non-scheduled air transport.

Air transport can be performed as:

- a) Scheduled service flights
 - 1.) According to a published timetable or
 - 2.) Regular and frequent flights so that they form a series of flights, each of which takes place so that each flight the seat capacity of aircraft is available to customers, purchasing it directly from the individual air carrier or from its authorized agents, and to serve traffic between the same two or more places
- b) Non-scheduled air transport
- c) International air traffic, which is performed between the point or points in Slovak Republic and a place or places within the territory of another State or between other countries
- d) Domestic air transport, which is performed between two or more points in the territory of the Slovak Republic.

5.1 Licensing of air carriers

In order to be granted a license to carry out air transport, a company that is interested in operating in this field has to apply for a license. The license is granted after fulfillment of all conditions for air carriers, depending on the kind of activity and category of operated aircraft. The following lines contain specific requirements that must be included in the application for a license. Along with the application, the applicant has to submit originals, or notary certified copies of all contracts and necessary documents to the competent authority in the state language (domestic applicants) or other in English (foreign applicants).

5.2 Particulars of the license application

- a) the required type of air operations and aircraft category,
- b) the applicant's name, permanent address, identification number and business license – physical entity; or business name, address, identification number of the entity, its ownership structure and place of incorporation in the Slovak Republic, accompanied by an extract from the Commercial Register - legal entity (if a group of entities, information on the relationship between them)
- c) the memorandum and other documents
- d) the organizational structure of the carrier, location of major facilities, privileges and responsibilities of responsible officers, documenting the ability to maintain the necessary professional care of the passengers carried, safety and order in its facilities and on board aircraft
- e) the names and surnames of persons professionally qualified to perform the aviation activities authorized to act on behalf of the applicant, the scope of their authority and specimen signatures, evidence of their professional competence and at least three years experience,
- f) the conditions of carriage, including the claims procedure and compensation for passengers in case of refusal to take passengers on board,
- g) patterns of tickets
- h) description of the land and the provision of air traffic data to the home airport and its premises, as well as a description of security processing of passengers, baggage and cargo and ground handling, and also copies of the contracts associated with these activities,
- i) developed a quality management system implementation of air transport activity, a way of acquainting the users of air transport with the schedule of flights, fares and conditions,
- j) business plan and proof of financial fitness.”[10]

6 ESTABLISHMENT STAGES OF AN AIRLINE

“The establishment of the airline process is quite complex and requires many steps. Below

are hierarchically organized procedures to be completed if the airline has set up. As mentioned above, the use of various legal forms of airlines. In most European countries are based joint stock companies, limited liability company but is also necessary to mention the less exercised as a form of state-owned company, general partnership, limited partnership. For all these companies could be to use uniform procedures of the constitution are only minor differences in the social contract. For successful establishment of the airline to be taken following 5 stages:

First Stage

It consists of a hierarchy to summarize the business plans. It is the initial phase of setting up or starting any company. Before the foundation of any society is a good idea to first ask questions like:

What name is chosen?

Where the head office located?

Who will be the administrator of the deposit?

Who must give permission for business?

What authorities need to establish?

Who will be the executive of the company?

Whether and if so how many members will the company have?

What is the capital of what will be the amount of deposits of members?

Second Stage

After having been the answered questions and clarified the business strategy followed by the second and that is the preparation of documentation. When setting up the company should be ready to individual documents.

A) The social contract.

The first basic document is the Memorandum of Association or Deed is a legal document, which shall be as laid down by the Commercial Code. It is very important here to choose the right subject to a business because they must be identical to the authorization is granted for business or there may be circumstances where the commercial register refused to accept the application for registration.

B) certificate of incorporation or associate of the founder

C) agreement with the location of residence or lease

D) The application for obtaining license of an air carrier

E) Air Operator Certificate

F) a statement of investment manager

G) a residence permit - it needs to attach only if the director is a person who does not reside in the European Union but is authorized by the Slovak Republic to stay.

H) Property Sheet

I) criminal record

J) specimen agents

K) other necessary documents.

Third Stage

The third stage, we could include the acquisition of various rights. One of these is entitled to obtain a business license. About this authorization should be required to advance the prescribed form which can be found on the competent authority for issuing licenses for business. For example, a trade license issued by the type of business trade office. With the modernization and digitization of these offices is possible to register whether a trade or other forms of business through the Internet at the Trade Register. As part of this stage is to obtain a carrier license. The procedures for obtaining licenses

and conditions that a person must meet to obtain this license and will be further addressed previous chapter.

4th Stage

The penultimate stage of the writing or recording included in the Commercial Register. The application for entry in the register must be made on the prescribed form which can be found at the relevant office or on the website of the Commercial Register of the Slovak Republic. In this case the application is made through the Internet, it is necessary to sign the document by electronic signature. The proposal also includes annexes which must be original documents, which we mentioned in the second stage and at the same time there must be a fair statement of the founder.

5th Stage

After completing all these steps, a company founded but not to forget one very important thing and write it to the tax office. The

law requires the operator to log on to 30 days entry to income tax. In this case there is a predetermined form, which is also found at the tax office. In case the person is a member residing abroad must be accompanied by other required documents.”[3][4][6][7]

7 AIR OPERATOR

“In order to enable the carrier to operate it is necessary to obtain the air operator's certificate. The Aviation Act. 143/1998Z.z. § 12 a natural or legal person to operate aircraft in air carrier only on the air operator certificate issued by the Authority.

The certificate is given:

- a) type of aircraft,
- b) the scope of permitted activities and
- c) the range of conditions for implementation of activities.

The applicant for a license must show:

- Integrity
- Professional competence,
- Financial capacity
- Citizenship of the Slovak Republic
- That core business is air transportation, or in conjunction with another business or use of aircraft maintenance and repair,
- Sworn statement that the property was not subject to bankruptcy in the last five years.”[8][9]

8 CONCLUSION

When it comes to setting up a company whose business focus will be the provision of air transport is probably the most important to make clear what kind of air transport will be provided and what kind of clients will be targeted. Based on this initial decision is to set up a company in a corresponding legal form of business. In Slovakia, it is possible to establish the company as a state enterprise, joint stock company, limited liability company or a public limited company or limited partnership. Each of these legal forms has its own characteristics in establishing and creating the

various governing bodies. In aviation, the most commonly used legal form of joint stock company or limited liability company.

Following examination of the requirements that must be met for establishing a company would like those who decide to establish such a company and have enough capital recommended to use the services of specialized organizations. Contents of the business of these companies is a professional company formation.

Depending on the complexity of the requirements of future owners down the price-mediated setting. The role of the owner of the only organizations that provide materials for the production of relevant documents and also to choose the appropriate company name. It is a relatively simple method that saves time and hassle especially when the individual acts.

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