

Aviation Finance and Ireland

Aviation and Ireland enjoy a long and deep-rooted history. GPA set up one of the world's first aircraft leasing platforms in 1975 and since that time, Ireland's aviation offering has seen considerable growth. Today, Ireland is the global centre for aviation finance and aircraft leasing.

- An Irish-leased aircraft takes off every two seconds.
- More than half of the world's leased aircraft are now owned or managed in Ireland.
- Fourteen of the world's top fifteen aircraft lessors are based in Ireland.
- Ireland has approximately a 65% share of the global commercial aircraft leasing market.
- Ireland has an excellent double taxation treaty network with a strong focus on cross-border aviation leasing transactions.

Why choose Ireland and Irish lawyers for Aviation Finance and Leasing?

The advantages of the Irish legal system include:

- 1. Common Law Legal System:** Ireland is the only English-speaking jurisdiction in the EU that has a common law legal system, with contractual principles relating to moveable property similar to equivalent US and English law principles. The doctrine of precedent and the principle of freedom of contract are central to the Irish legal system.
- 2. Cape Town Convention:** Ireland has ratified the Cape Town Convention which gives aircraft owners and financiers priority rights and remedies based on registration of international interests. Ireland has also adopted the Alternative A insolvency regime, which gives creditors the right to repossess an aircraft asset after a waiting period of 60 days.
- 3. GATS:** The Global Aircraft Trading System ("GATS") is an online platform established to facilitate the trading and financing of aircraft through the use of trusts. Irish law recognises the concept of trusts and one of the chosen laws for the initial GATS trusts is Irish law. It is anticipated that the GATS system will become a widely used method of structuring aircraft trades in the future.
- 4. Deep Talent Pool:** Ireland has been one of the key global centres in the aviation finance and leasing business for over 40 years. As a result, there is a large pool of experienced legal

advisers in Ireland who are highly regarded internationally and who have extensive experience and expertise in multi-jurisdictional aviation transactions.

5. Commercial Court: The Commercial Court was established in 2004 as a division of the High Court to achieve efficiency in the resolution of high value commercial disputes. Cases are admitted by special application and are dealt with swiftly with short deadlines and rules of procedure designed to give the Court maximum flexibility in the management of cases.

How will BREXIT impact Aviation Finance and Leasing ?

The impact of BREXIT is still unfolding and, notwithstanding the entry into of the EU-UK Trade and Cooperation Agreement (“TCA”), its long-term effects may not be clear for some time. Brexit may however give rise to certain cases where the choice of the English courts as a venue for resolving commercial disputes for aviation transactions is less attractive. For example, if enforcement of a judgment, or recognition of an “asymmetric” jurisdiction clause (which is typically included in finance and leasing agreements), within the EU is important, parties may wish to consider choosing the courts of an EU member state.

With regard to the TCA itself, while it does not directly address aviation finance and leasing as a topic, it does include a number of provisions regarding air transport, which are of interest. In particular:

- The TCA imposes new market-access requirements and new rules on aviation safety;
- EU airlines remain subject to strict ownership and nationality requirements and UK airlines no longer are entitled to fly between two EU destinations;
- As regards aircraft leasing, ‘dry leasing’ generally is permitted but ‘wet leasing’ is subject to controls according to whether the lessor and lessee is a UK entity or an EU entity; and
- The EU and the UK may require leasing arrangements to be subject to approval by the relevant competent authorities for the purpose of verifying compliance with requirements in the TCA.

