



the AVIATION lawyers

The Validity and Use of Digital Aviation Documents





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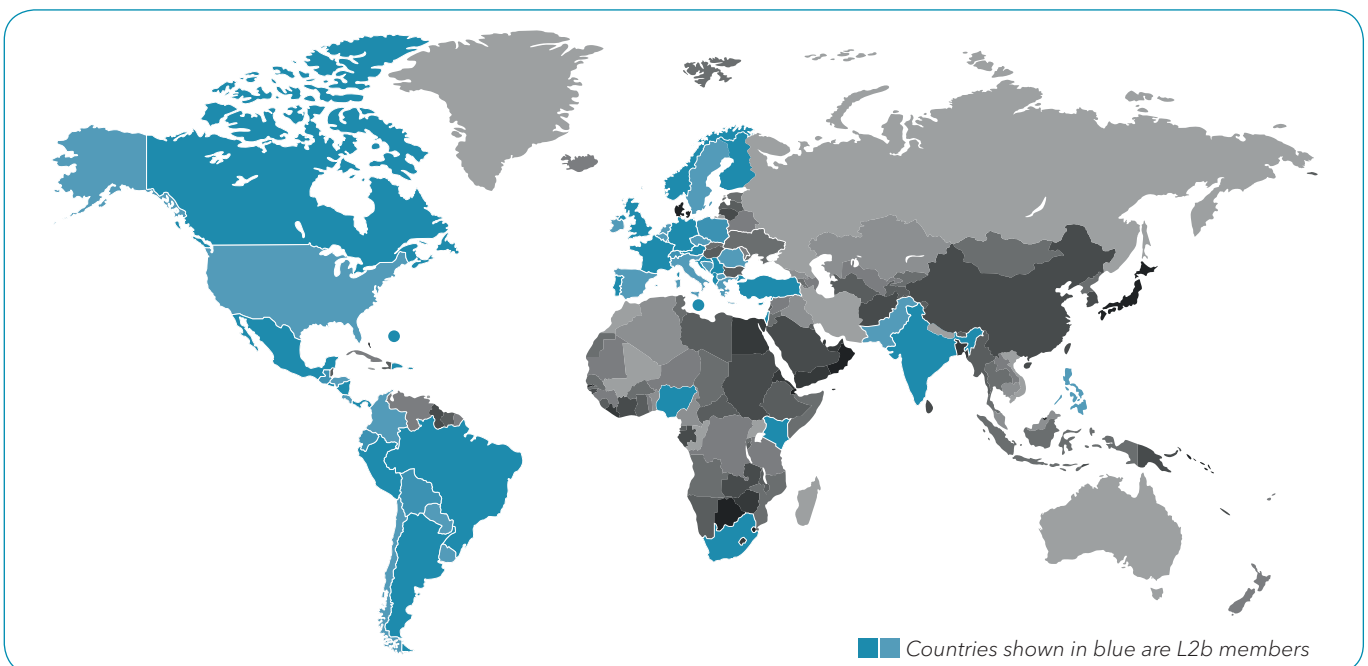
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L2b Aviation, the world's premier network of independent aviation law firms, was created in order to solve a problem: how to obtain expert aviation legal advice in jurisdictions worldwide. The aviation industry is constantly growing and evolving; understanding the current set of regulations, authorities concerned, and market factors from country to country can be a challenge.

We are proud to be the solution. Our network of over 54 law firms around the globe specialises in aviation; successfully representing airlines, financiers, lessors, manufacturers, insurers, airports, and export credit agencies. Aviation transactions can become complicated quickly and members of L2b Aviation are well-equipped to provide the requisite expertise to successfully navigate the nuances of the industry. Clients can now gain access to member firms in over 54 countries and contacts throughout the rest of the world. Our constantly growing network covers Europe, the Americas and the Caribbean, Asia, the Middle East and Africa.

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Relationships matter. L2b Aviation members offer the required local contacts and expertise to the highest professional standard providing at the same time an exceptional platform for seamless legal multilingual services for cross-border cases and transactions.



Introduction

When we think about aviation it is not possible to split it from technology. Aircraft finance transactions involve considerable paperwork and parties from different jurisdictions, which means different legislations that should converge to a final set of documents. Such documents must be valid and enforceable in accordance with its governing laws and with the relevant jurisdiction where the aircraft will be registered. Unfortunately, the aviation industry does not have a universal rule when the subject is the formalities for registration and admissibility of aviation documents such as leases, mortgages or other security documents. Each jurisdiction has its own rules. How the digital world with the use of cryptographic platforms can help the aviation industry to optimize the number of documents involved in aircraft finance transactions, principally optimizing time and costs with local legalizations? How the local aviation authorities have been able to adapt local rules to turn paper registries into digital registries?

Although the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment (known as the Cape Town Convention) has helped to create an international registry it was not sufficient to abolish local requirements among different jurisdictions in terms of local formalities for registrations and admissibility in local courts. The Hague Convention (known as the Apostille Convention) also established specific rules to unify the legalization formalities for documents executed among different jurisdictions. The fact that not all jurisdictions ratified the Cape Town Convention or the Apostille Convention it ends up more difficult to optimize the paperwork on aviation registration.

During the pandemic, the use of digital cryptography to execute documents facilitated aviation transactions and registrations during the temporary closure of local registries and notaries. Since then, some aviation authorities have been working to implement a 100% digital registration system like in Brazil and India. Others, like Colombia, is now hybrid accepting paper and digital documents. Most of other jurisdictions have already implemented rules for the validity of

digital documents but still do not accept them in local aviation registries. In some countries, there are local electronic registries for liens even though the aviation registry itself has not developed to a digital aviation register. Countries members of the European Union have common rules for the use of digital signatures although the development for a digital aviation register has not been achieved and/or unified yet. Germany for example is well advanced in the development of a digital aviation register even though still not concluded. The United States also has specific legislation including specific rules issued by the FAA.

Digital cryptographic platforms have been developed to facilitate international deals and ensure information security and authenticity of documents. The use of cryptographic and blockchain platforms came as a universal tool for execution of documents and formalization of transactions in any part of the World enabling a decentralized and immutable registration system.

Here the reader will be able to find a summary on how local aviation authorities and local courts among different jurisdictions have been implementing digital cryptography to expedite execution, registration and filing procedures, optimizing time and costs. We hope that in a near future aviation authorities will be able to standardize a unique digital and cryptographic registration platform facing the digital globalized world. Legislation and regulations should be developed and/or modified to rule the use of digital cryptographic platforms and not create barriers to technology developments.

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Albania

karanovic/partners

Albania

Law Firm: CR Partners, in cooperation with Karanovic & Partners

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1) Is there specific legislation in Albania ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

Electronic signatures and electronic documents in Albania are governed by various pieces of legislation, namely, Law no. 9880, dated 25.02.2008, "On electronic signature" ("E-Signature Law"), Law no. 10273, dated 29.04.2010 "On electronic document," Law no. 107/2015 "On electronic identification and trusted services" and the respective secondary legislation. The government has currently completed the public consultation and is expected to submit to the Parliament a new draft law, "On Electronic Identification and Trust Services," aiming to fully transpose the EU eIDAS Regulation.

The aforementioned legal rules also apply to state authorities, including the Albanian Civil Aviation Authority ("ACAA"); however, the use and submission of documents with electronic signatures with ACAA are not very common, and an established practice has not been implemented yet, and therefore we strongly recommend submitting documents signed in wet ink.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The E-signature Law defines three types of e-signatures: (i) simple, (ii) advanced, and (iii) qualified electronic signature; however, only a qualified electronic signature ensures full equivalence in terms of validity and enforceability with that of a handwritten/wet-ink signature.

A Remote Signing Service Platform (esign.akshi.gov.al) has been established by the National Agency of Information Society ("NAIS"), which issues qualified certificates for electronic signatures and electronic seals. This type of certificate is issued inter alia to natural persons (i.e., Albanian citizens associated with a private entity in Albania or foreign citizens employed or owning a business in Albania) and is used in the Remote Signing Service Platform for the purpose of supporting electronic signing of documents.

In interactions with Albanian authorities, as a rule, only a qualified electronic signature issued by a trust service provider in Albania would be accepted as a valid electronic signature. In addition, the use of electronic signatures is not possible for documents requiring the notarial form or signed before a notary public.

Electronic signatures issued by foreign service providers are recognized and enforced in Albania in compliance with the bilateral agreements entered into force between the Republic of Albania and third countries on the recognition of electronic signatures and data exchange. Electronic signatures issued by

service providers operating in the EU and duly accredited by the competent authority in the EU have the same legal validity and probatory force as those issued from an Albanian service provider.

3) Does the Aviation Authority in Albania use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No, the electronic register is not yet in place.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Albania?

N/A.

5) Are there any documents that are not required for registration with the Aviation Authority in Albania but can be valid and enforceable by the use of some type of digital certification?

Except for documents required under the notarial form, all other documents may be signed by a qualified electronic signature with a legal effect equal to that of a handwritten signature (please refer to our answer under question 2).

6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Albania?

No, this is not possible.

7) Do the courts of Albania accept procedural documents executed digitally? Is there any specific certification required? Does Albania make any distinction between official digital signatures and private digital signatures?

The E-Signature Law does not distinguish between official digital signatures and private digital signatures.

However, courts accept only a limited number of documents executed digitally which are issued online through the governmental platform e-Albania (i.e., commercial company excerpt, certificate of social contribution, etc.). For these documents, simple hard copies with no additional certification by public authorities can be submitted. Documents executed digitally by other public authorities can be submitted, provided that the hard copies are certified by the authority which has issued the document. For all other documents executed digitally (with a qualified electronic signature), the secondary legislation for certification of hard copies by a public notary has not yet been enacted, and the court can refuse to consider them.

Albania

Continued...

karanovic/partners

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

There is no legal obligation to explicitly state in the agreement that the contract will be signed with an electronic signature; however, agreements signed electronically are valid only if all parties sign electronically.

9) Can foreign entities not located in Albania execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Albania? Are there any other formalities required?

Foreign entities not located in Albania may execute Lease Agreements or Finance Documents with digital signatures in accordance with the law of the country governing the documents. If documents are governed by Albanian law, a qualified electronic signature must be used to ensure full validity and enforceability with that of a handwritten/wet-ink signature. However, please note that submission of electronic documents with electronic signature with the ACAA is still not possible and authenticated hard copies will be required (please refer to the answer under question 11).

Regarding other formalities on foreign documents, they must be apostilled or legalized and translated into Albanian in order to be filed with ACAA.

10) Does the Aviation Industry in Albania usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The aviation industry in Albania does not use blockchain technology yet.

11) Are there any Notary or Apostille requirements in Albania? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

As a rule, documents submitted with ACAA are not required to be signed before a notary (for e.g., lease agreement, IDERA, etc.); however, for certain documents, the law may explicitly require the notarial form (for e.g., certain security agreements governed by Albanian law). In practice, documents are submitted either as originals or certified copies (by a notary public) thereof.

Documents executed digitally by Albanian public authorities can be submitted to ACAA in hard copy provided that the hard copies are certified by the authority which has issued the document. Regarding private documents executed digitally (with a qualified electronic signature) and governed by Albanian law, the secondary legislation for certification of hard copies by a public notary has not yet been enacted, and the ACAA can refuse to consider them.

The form of foreign-law documents (including signature) must comply with the laws of the jurisdiction governing the document. As a matter of practice, when foreign public documents or private documents governed by foreign law are submitted to Albanian authorities, hard copies authenticated by a notary

public of such jurisdiction may be required and not just simple copies (i.e., the printed version of the electronic document). In such case, the applicant should make sure that under the laws of the jurisdiction where the document is issued or signed, a notary of that jurisdiction can authenticate the copy of the document signed through an electronic signature of any kind and that the apostille seal can be affixed accordingly (unless the apostille seal is not required for specific countries based on bilateral agreements).

In the event the foreign country is not a member of the Hague Convention of 5 October 1961, "Abolishing the Requirement of Legalisation for Foreign Public Documents", documents issued in such country must undergo the legalization process.

a. Has Albania implemented the e-Apostille program?

Albania has not implemented the e-Apostille program. Therefore, documents intended for Albania must be provided with an apostille in paper form

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Argentina

Argentina

Law Firm: *Rodriguez Grellet Abogados*

Author(s): *María del Milagro Rodríguez Grellet and Cecilia Rodríguez Grellet*

1) Is there specific legislation in Argentina ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

Argentina has not regulated the use of digital platforms to execute legal documents, with no exception for aviation legal documents. All documents must be submitted with a signature by a legal representative and can be filed in person or through the official portals. The Authority can request the legal representative to present the power of attorney or proof of capacity in person with the original documentation for their review.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

3) Does the Aviation Authority in Argentina use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

Argentina has established electronic registration for aircraft Documents and Aircraft Lease Documents, including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs. The applicant has the option to file the registrations in person; however, it is recommended to use electronic registration to avoid delays. The Authority has established that some registrations must be filed online, such as all legal documents related to Drones.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Argentina?

Argentina has implemented the official portal (TAD) to facilitate the parties to upload electronic files for registration. The requirements are not different from the presentation that used to be done in person and are subject to verification from the Authority. It is mandatory to file all documentation in color to allow the Authority to verify the document is an exact copy of the original. For those documents that need external signatures, like certification granted by professional institutions like the Bar Association or Translators Association, they must comply with the same requirements.

5) Are there any documents that are not required for registration with the Aviation Authority in Argentina but can be valid and by the use of some type of digital certification?

No. There are no documents that are not required for registration with the Aviation Authority in Argentina but can be valid by the use of some type of digital certification.

6) Is it possible to upload lawsuits, pleadings and procedural

documents electronically in Argentina?

It is possible to upload lawsuits, pleadings and procedural documents electronically.

Since 2016, a digital system has allowed attorneys to use electronic filings in court. The Federal Court has its own system (Judicial Federal Court), and the state jurisdiction has its own system and particular requirements. Only the attorneys from the bar jurisdiction are allowed to use the portal and must stay their appearance in the matter before filing. All legal notices to the attorneys in record are electronic.

In the process of change and modernization in the provision of the justice service, which the Supreme Court of Justice of the Nation has been developing in the framework of the institutional strengthening program of the Judicial Power of the Nation and in use of the faculties granted to it the National Constitution, this Court proceeded to regulate different aspects related to the use of electronic and digital technologies and, consequently, ordered its gradual implementation in the field of the Judicial Power of the Nation from the implementation of different computerization projects and digitization.

Thus, within the framework of the provisions of arts. 5th and 6th of Law 25,506 on Digital Signature, arts. 286 and 288 of the Civil and Commercial Code of the Nation and Law 26,685, which authorizes the use of files, documents, communications and electronic addresses, as well as electronic and digital signatures, in all judicial and administrative processes that are processed before this Judicial Power of the Nation, with the same legal effectiveness and probative value as its conventional equivalents, while authorizing the Supreme Court to regulate its use and order its gradual implementation, the conformation of the electronic file was regulated, as well as the digital file.

For this purpose, different electronic information processing functions were incorporated into the Judicial Management System in accordance with the agreed 31/2011 -Electronic Notifications-; the agreed 14/2013 -of mandatory application of the Judicial Management System-; the agreed 38/2013 -of electronic notifications for all jurisdictions and instances of the Judiciary-; the agreed 11/2014 -which provides that a digital copy of the pleadings submitted by the parties be attached-; the agreed 3/2015 -mandatory application of electronic notification, copies of presentations, exemption from filing mere formality writings on paper, digital Note Book, in all judicial processes- and the agreed 16/2016 -which approved the regulation for the entry of causes by electronic means, lottery and allocation of files, providing for its gradual implementation, as agreed 5/2017 and 28/2017-.

7) Do the courts of Argentina accept procedural documents executed digitally? Is there any specific certification required? Does Argentina make any distinction between official digital signatures and private digital signatures?

Since 2016, with the digitalization of the judicial system, the Court adopted the digital signature in the General Secretariat

Argentina Continued...

of Administration. In 2020, the Federal Court and lower court approved the use of the electronic and digital signature in their jurisdiction. In 2022, the Supreme Court of Justice of the Nation approved the use of the Electronic Administrative File, which will be implemented through the Administrative File Management System (SGEA).

The signature of the signatories must be previously registered before the Jurisdiction, a process that requires to be registered in the bar; only attorneys can register, and it does not need to be renewed.

Argentina Law makes distinctions between official digital signatures and private digital signatures.

a. It is presumed, unless proven otherwise, that any digital signature belongs to the holder of the digital certificate that allows the verification of the signature.

b. If the result of a digital signature verification procedure applied to a digital document is authentic, it is presumed, unless proven otherwise, that this digital document has not been modified from the moment it was signed.

c. A digital signature is valid if it meets the following requirements: a) has been created during the validity period of the signer's valid digital certificate; b) be duly verified by reference to the digital signature verification data indicated in the certificate according to the corresponding verification procedure; c) the certificate has been issued or recognized by a licensed certifier.

d. Sender. Presumption. When an electronic document is signed by an application certificate, it will be presumed, unless proven otherwise, that the signed document comes from the person holding the certificate.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No, there are no formal requirements, but the formalities depend on the organisms where the document must be submitted. Ex.: Notary certification or apostille.

9) Can foreign entities not located in Argentina execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Argentina? Are there any other formalities required?

Argentina does not have any exceptions to the execution of Lease Agreements or any Finance Documents with digital signatures by foreign entities. All parties, domestic and international, are permitted to file agreements for registration with the Aviation Authority in Argentina. But the firms must be certified with notary acknowledgment by a notary, and the documents apostilled.

10) Does the Aviation Industry in Argentina usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Argentina has not incorporated digital tools to replace paper documentation as a proof of original. Technology has not replaced paper files entirely; in the end, the physical registry is the latest proof. Accordingly, the Authority may still request

representatives to submit paper documents to verify the authenticity and accuracy of the digital documentation previously submitted.

11) Are there any Notary or Apostille requirements in Argentina? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Argentina implemented the e-Apostille program?

Even in cases where representatives file documents online through the Authority portal, the apostille and notary certification apply to electronically executed documents; this requirement has not been replaced for a digital apostille. All documents issued in a foreign country must have the apostille attached and files in color to allow the Authority to verify it is an accurate copy of the original.

To date, the only requirement is that the PDF document must be scanned with colors in order to be submitted online before the Aviation Authority.

a. The e-Apostille program has been implemented in Argentina. However, the program needs to improve the times, considering that the procedures do not have a specific resolution term since they are subject to the operation of the computer system and the volume of requests. The current term for resolution of the procedures is around 30 business days from the date of generation of the file.

Those who meet the following requirements can carry out the process: 1. Be over 18 years old, 2. Have a Fiscal Code Level 2 or higher, 3. Have a bank account in Argentina associated with the Tax Code.

Until the processing times are improved, most of the representatives opt to obtain a physical apostille to avoid delays and submit a scanned copy in compliance with the electronic file requirements.

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Austria



Austria

Law Firm: *Pendl Mair Attorneys at Law*

Author(s): *Rudolf Pendl*

1) Is there specific legislation in Austria ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

Based on the European Union Regulation (eIDAS Regulation) and Austrian Regulation (E-Government-Act), Austro Control GmbH electronically signs certificates and issues the documents either in electronic or in paper format (since July 1, 2023).

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The official signature must have certain features that ensure the security of the signature or seal itself and the validity of the document when printed on paper. Section 19 of the E-Government Act states that, in addition to the figurative mark and information on the verifiability of the signature or seal, it must also contain an indication that the document has been officially signed.

The validity of the certificate can be checked on this website: https://www.rtr.at/TKP/was_wir_tun/vertrauensdienste/Signatur/signaturpruefung/Pruefung.de.html.

3) Does the Aviation Authority in Austria use an electronic register for Aircraft Documents or Aircraft Lease Documents (including leases, security agreements, mortgages, lease assignments, novation and IDERAs)?

No, Austro Control does not have an electronic register for Aircraft Documents.

Austro Control only has an Aircraft Register for Civil Aircrafts (aeroplanes, rotorcraft and powered sailplanes). It is possible to check the assignment of registration marks, registration, change of registration and deregistration of aircraft in this register.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Austria?

See Question 3.

5) Are there any documents that are not required for registration with the Aviation Authority in Austria but can be valid and enforceable by the use of some type of digital certification?

In general, the use of digital certification documents will be valid and enforceable. However, certain exceptions may apply.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Austria?

All initial and subsequent submissions (lawsuits, responses, motions, pleadings, appeals, claims, etc.), including enclosures, can be transmitted to and received electronically and securely by Austrian courts and public prosecutors' offices (initial submissions only) via the Electronic Legal Communication of the Judiciary (ERV). Lawyers are even obligated to use ERV.

7) Do the courts in Austria accept procedural documents executed digitally? Is there any specific certification required? Does Austria make any distinction between official digital signatures and private digital signatures?

There are different types of electronic signatures: "simple" electronic signature, qualified electronic signature and administrative signature ("Amtssignatur").

Depending on the security level and the certificate, the signed documents have different effects.

Documents provided with a "simple" (e.g., scan copy) electronic signature are subject to the free evaluation of evidence by the judge in court proceedings. Thus, there is also no legal certainty.

According to Art. 25 (2) eIDAS Regulation, the qualified electronic signature fulfills the legal requirement of a wet signature. In order to generate a qualified electronic signature, the signatory must have a qualified certificate, in addition to a qualified signature creation device, such as a smart card with the corresponding signature software.

The administrative signature is issued by an authority to PDF documents such as official notices.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

A qualified certificate must meet certain technical requirements (Art. 28 & Annex I of the eIDAS Regulation), such as electronic signature validation data corresponding to the electronic

Austria

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signature creation data. Since electronic signatures are legally equivalent to wet signatures, the electronic signature does not have to be expressly agreed to in a contract. However, please note that there are some exceptions regarding family law, inheritance law or suretyships.

9) Can foreign entities not located in Austria execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Austria? Are there any other formalities required?

Certificates from the European Union or the European Economic Area are generally equivalent to certificates from Austrian trust service providers. This especially applies to qualified certificates.

Certificates from third countries can be used in the European Union or the European Economic Area for non-qualified electronic signatures or seals (see Articles 25 (1) and 35 (1) of the eIDAS Regulation). However, they are only considered qualified certificates if they are issued within the framework of a trust service recognized under an agreement concluded between the Union and the third country concerned or an international organization pursuant to Article 218 TFEU.

10) Does the Aviation Industry in Austria usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in Austria? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

For electronically issued documents that are forwarded electronically to the competent authority without media disruption, the data contained in the electronic signature or seal certificate can be confirmed by using an electronic signature confirmation (apostille) if the technical and organizational requirements are met.

Please note that Austro Control generally does not require notarized documents for the registration process of aircraft.

a. Has Austria implemented the e-Apostille program?

Yes, according to the Apostille Act, electronic apostilles are equivalent to paper apostilles and are recognized by the contracting states to the "Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents."

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The Bahamas



The Bahamas

Law Firm: *Higgs and Johnson*

Author(s): *Andre W. Hill and Keith O. Major, Jr.*

- 1) Is there specific legislation in The Bahamas ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

The validity and enforceability of electronic signatures in The Bahamas is governed by the Electronic Communications and Transactions Act, Ch.337A (the "ECTA"). There are no digital platforms for the execution of documents.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

Pursuant to Section 9(1) of the ECTA, documents may be signed electronically if a method is used to identify the signatory or indicate that the person intended to sign or otherwise adopt the information in the electronic communication. Section 9(3) of the ECTA provides that an electronic signature may be proved in any manner, including by showing that a procedure existed by which it is necessary for a party, in order to proceed further with a transaction, to have executed a symbol or security procedure for the purpose of verifying that electronic communication is that of such party.

Section 4 of the ECTA excludes the use of e-signatures for (among others) deeds. Provided that none of the types of documents referred to in question 1 are expressed to be a deed, the use of electronic signatures is permissible.

- 3) Does the Aviation Authority in The Bahamas use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No, The Bahamas does not use an electronic register for documents affecting the title of aircraft registered in The Bahamas.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in The Bahamas?**

Not Applicable.

- 5) Are there any documents that are not required for registration with the Aviation Authority in The Bahamas but can be valid and enforceable by the use of some type of digital certification?**

No, there is no such documentation.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in The Bahamas?**

It is possible for this to be done in a portion of the judicial system that deals solely with industrial employment complaints, namely The Bahamas Industrial Tribunal. However, the electronic filing of documents is not yet supported by The Bahamian Supreme Court nor the other judicial offices.

- 7) Do the courts of The Bahamas accept procedural documents executed digitally? Is there any specific certification required? Does The Bahamas make any distinction between official digital signatures and private digital signatures?**

Pursuant to Section 4(c) of the ECTA, the provisions of the ECTA providing for electronic signatures are not extended to court orders or notices or official court documents which are required to be executed in connection with court proceedings. As such, the courts of The Bahamas do not accept procedural documents being executed digitally.

- 8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

Pursuant to Section 5(2) of the ECTA, a transaction that has been conducted using electronic means shall not be denied legal effect, validity, or enforceability because of the type or method of electronic communication, electronic signature or electronic authentication selected by the parties. As mentioned in our response under question 2 above, an electronic signature may be proven in any manner, including executing a symbol or security procedure for the purpose of verifying that it is the signature of such party. In our view, it is advisable that (i) the parties agree that electronic signatures may be used; (ii) the type of electronic signature used is unique to the signatory; and/or (iii) the method creating the electronic signature contains components which together are unique to the signatory for identification purposes.

The Bahamas
Continued...



9) Can foreign entities not located in The Bahamas execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in The Bahamas? Are there any other formalities required?

Yes, this is possible, so long as the provisions of the ECTA referred to above are observed.

10) Does the Aviation Industry in The Bahamas usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in The Bahamas? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has The Bahamas implemented the e-Apostille program?

If the documents are to be recorded at the Bahamian Registrar General's Department pursuant to the provisions of the Registration of Records Act (RRA), there are notary and apostille requirements. Recording at the Registry of Records, inter alia, requires an affidavit to be sworn by each witness to the execution of the document before a notary public. If the execution takes place outside of The Bahamas, the affidavit must be apostilled or legalised for use in The Bahamas. If the execution of the document is not witnessed, then each executing party must swear an affidavit of due execution before a notary public.

Section 16 of the ECTA specifically provides that a document may be notarized using an electronic signature. It should be noted that, as a matter of practice, the Registry of Records is reluctant to accept documents executed and notarized using electronic signatures.

a. There is no e-Apostille program in The Bahamas.

- 1 *Electronic signature is defined in the ECTA as any letters, characters, numbers, sound, process or symbols in electronic form attached to, or logically associated with information that is used by a signatory to indicate his intention to be bound by the content of that information.*
- 2 *Electronic communication is defined in the ECTA as information which is communicated, processed, recorded, displayed, created, stored, generated, received or transmitted by electronic means.*
- 3 *Transaction is defined in the ECTA as an action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including the sale, lease, exchange, licensing, or other disposition of personal property, including goods and intangibles, interest in real property, services, or any combination of the foregoing.*
- 4 *Security procedure is defined in the ECTA as a procedure, established by law or agreement or knowingly adopted by each party, that is employed for the purpose of verifying that an electronic signature, communication or performance is that of a particular person or for detecting changes or errors in content of an electronic communication.*

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Bosnia and Herzegovina

karanovic/partners

Bosnia and Herzegovina

Law Firm: Attorneys at Law in cooperation with Karanovic & Partners

Author(s): Amina Đugum

- 1) Is there specific legislation in Bosnia and Herzegovina ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

There is no specific legislation in Bosnia and Herzegovina ("BH") governing the use of documents executed with the use of digital platforms/electronic signatures by the BH Directorate for Civil Aviation ("BHDCA") specifically.

However, electronic signing is generally governed by the BH Law on Electronic Signature ("BH E-Signature Law"), while there is no law that specifically regulates the use of digital platforms. In accordance with the BH E-Signature Law, all qualified electronic signatures have the equivalent legal effect of handwritten signatures.

We emphasize that although the BH E-Signature Law was adopted in 2006, the issuance of e-signatures in practice only started a few years ago. Although qualified electronic signatures have the equivalent legal effect of handwritten signatures, in practice, and to the best of our knowledge, local authorities (including the BHDCA) are reluctant to accept electronically signed documents.

All applications, along with the supporting documentation filed to the Directorate, must be in printed paper documents, in the original or certified copy version for some documents, and executed with a handwritten signature, according to the information we received from the BHDCA (on a no-name basis).

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

The BH E-Signature Law regulates only the qualified e-signature. It clearly provides that the qualified e-signatures are of the same legal force as handwritten signatures.

A qualified e-signature is a special type of advanced electronic signature that is linked to an electronic certificate issued by the competent authority. The only authorized provider of qualified e-signatures in BH is Halcom Ltd., with its headquarters in Sarajevo.

Nevertheless, the above does not mean that any e-signing in BH requires the existence of such qualified e-signatures. Such a requirement exists only for those types of documents, i.e., contracts, for which a written form is explicitly required by BH laws. In all other situations where the local laws do not require a written form, a qualified e-signature as such is not required.

- 3) Does the Aviation Authority in BH use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The BHDCA does not use an electronic register for Aircraft Documents or Aircraft Lease Documents. It only uses a physical Register/Book of civil aircraft and other airborne subjects in BH.

However, there is an electronic register of pledges over movables, which includes pledges on aircraft. The register is an online database available on the BH Ministry of Justice's official website. Pledges on aircraft can be registered and searched via the online register. It is possible to upload electronic files for registration in the register.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in BH?**

N/A.

- 5) Are there any documents that are not required for registration with the Aviation Authority in BH but can be valid and enforceable by the use of some type of digital certification?**

Generally, when there are no regulations prescribing other legal requirements pertaining to the execution of documents (e.g., a requirement of handwritten signature certified by a notary public, a form of notarial deed, etc.), all documents may be signed by a qualified electronic signature, with legal effect equal to that of a handwritten signature (in accordance with the BH E-Signature Law). However, as noted in response to Q1, the use of e-signature is not developed in practice, and authorities in BH are generally reluctant to accept electronically signed documents.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in BH?**

It is not possible to upload any type of procedural documents in a court proceeding in Bosnia and Herzegovina. All documents must be submitted in written form (via mail or submitted directly to the court).

However, once submitted, those documents will, in general, be uploaded to a digital database used by the judiciary system in BH. Although access to the database is limited and shall be granted only upon a request of a party to the proceeding (or its attorney), once the access is granted, most of the documents submitted in the proceeding will be accessible for viewing and downloading (of a copy) by the subject to which the access is granted to.

Bosnia and Herzegovina

Continued...

karanovic/partners

Access to the database is granted via a code or to a user registered on the official website through which the database is accessed. The access can be obtained only to a particular proceeding for which the request for access has been filed earlier upon.

Once a document certified with an apostille abroad is to be used in BH, it must be translated into one of the official languages in BH by a court interpreter, and then, the identity of the translated and the original version of the document must be certified by a court in BH.

7) Do the courts of BH accept procedural documents executed digitally? Is there any specific certification required? Does BH make any distinction between official digital signatures and private digital signatures?

However, there are countries for which public documents the Apostille is not required in BH. Those documents only need to be certified or issued by the local authorities of the country, and if the document is in a foreign language, it must be translated by a BH court interpreter. The list of those countries includes 21 countries, most of them from the region and EU.

Courts in BH generally do not accept procedural documents executed digitally.

If the country in question is not a signatory of the Apostille Convention, public documents from that country must pass a full legalization procedure to be used before the authorities in BH. That implies a procedure that is a lot more complicated and time-consuming, but once legalized, those documents can be used in BH.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

a. Has BH implemented the e-Apostille program?

According to the BH E-Signature Law, only qualified e-signatures are accepted in BH, but having in mind the situation described under Q1, the use of e-signatures is not developed in practice, and authorities in BH are generally reluctant to accept electronically signed documents.

No, BH has not implemented the e-Apostille program.

9) Can foreign entities not located in BH execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in BH? Are there any other formalities required?

No, they can't. All of the documents that are to be filed for registration with the Aviation Authority in BH must be filed in written form with an ink signature, according to the information we obtained from the BHDCA (on a no-name basis). For further information, please see the answer to question three about digital signatures and the answer to question one of this questionnaire.

10) Does the Aviation Industry in BH usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The aviation industry in BH is still using printed paper aircraft documents, but it is also possible that there may be some organizations (which are operating on a multinational level) within the industry that are exploring and practicing the use of digital tools such as blockchain technology for the control of aircraft documents.

11) Are there any Notary or Apostille requirements in BH? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

There are Notary and Apostille requirements in BH for some types of documents. With the Apostille Convention in force in BH, public documents must be certified with an apostille by a court in BH to be recognized in other countries/parties to the convention and vice versa.

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Brazil

Brazil

Law Firm: *Basch & Rameh Advogados Associados*

Author(s): *Nicole Cunha*

- 1) Is there specific legislation in Brazil ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

Since January 2021, documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) can be provided in digital format and filed electronically with the Brazilian Aeronautical Registry ('RAB') as long as such documents are signed digitally in accordance with the Brazilian Infrastructure of Public Keys - 'ICP-Brazil'; otherwise, documents executed in ink must be digitally certified with ICP-Brazil by local Notaries in Brazil prior to file with the RAB. Other types of electronic or digital signatures are not accepted by the RAB. Additionally, if documents are executed in the English language, they must be translated into Portuguese by a sworn translator before submission with the RAB. Such translations must also be digitally certified. For documents executed abroad, please see also our reply to question 11 in relation to notarization and apostille requirements.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?**

The RAB only accepts documents in digital format certified with Brazilian Infrastructure of Public Keys - 'ICP-Brazil' and valid verified with the Brazilian National Institute of Information Technology (ITI).

- 3) Does the Aviation Authority in Brazil use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The RAB is a 100% digital register for Aircraft Lease Documents.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Brazil?**

Yes. All Aircraft Documents digitally certified with ICP-Brazil and valid verified with the Brazilian National Institute of Information Technology (ITI) can be uploaded electronically with the RAB system named SEI.

- 5) Do the courts of Brazil consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?**

In order to be admissible in Brazilian courts, Aircraft Lease Documents must be previously registered with the Aviation Authority with the Brazilian Aeronautical Registry, which is a specific register for aviation documents.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Brazil?**

Yes. Generally, filings of lawsuits, pleadings and procedural documents are uploaded electronically to Brazilian courts.

- 7) Do the courts of Brazil accept procedural documents executed digitally? Is there any specific certification required? Does Brazil make any distinction between official digital signatures and private digital signatures?**

Generally, private and procedural documents are executed digitally and filed electronically in local courts. Procedural documents must be digitally certified with ICP-Brazil before being uploaded electronically to local courts.

- 8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

The express consent of the parties to digital signatures in private documents is advisable to avoid challenge by the other party. Currently, local courts accept all types of digital signatures for private documents. In the case of the Brazilian Aeronautical Registry, the electronic signatures must comply with the requirements detailed in our replies to questions 1, 2 and 11.

- 9) Can foreign entities not located in Brazil execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Brazil? Are there any other formalities required?**

Foreign entities are allowed to execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority as long as the requirements described in our replies to questions 1, 2 and 11 have been fulfilled.

- 10) Does the Aviation Industry in Brazil usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?**

Yes. The Brazilian Aeronautical Registry is a digital register. Aviation documents such as certificates of airworthiness and registration are issued digitally certified.

Brazil

Continued...

BASCH & RAMEH
ADVOGADOS ASSOCIADOS

11) Are there any Notary or Apostille requirements in Brazil? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

According to local laws, documents that are signed outside Brazil in a State that is a signatory to the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents of October 5th, 1961 (the "Apostille Convention"), would have to bear a certificate called "Apostille", issued by the competent authority of the State from which such documents emanate. In the case of any documents signed in a State that is not a signatory to the Apostille Convention, then documents must be consularized (sometimes called "legalized") by the Brazilian consulate responsible for the jurisdiction where the signature has taken place. Alternatively, documents signed in Brazil by attorneys-in-fact pursuant to notarized and apostilled or consularized powers of attorney (if necessary, as mentioned herein above) do not require apostille / consularization.

Notarized and apostilled documents received in paper can be digitalized, including specific certification of ICP-Brazil by local Notaries before submitting with the Aviation Authority.

a. Has Brazil implemented the e-Apostille program?

Brazil has implemented the e-Apostille program for documents executed in Brazil.

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Chile

Chile

Law Firm: MICP Legal

Author(s): Rodrigo Marré Grez, Francisco Fernández Silva, Vicente Karmelic Alcalde, Sebastián Wielandt.

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1) Is there specific legislation in Chile ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

The specific legislation in Chile is Law Number 19.799 on Electronic Documents, Electronic Signature and Certification Services of such Signature, which allows the execution of acts and contracts to be subscribed by means of electronic signature, as long as the law does not require:

- (1) A solemnity that cannot be fulfilled by the use of an electronic document or signature;
- (2) The personal attendance of any of the parties; and
- (3) Acts and contracts related to family law.

Therefore, the special aeronautical legislation requires for the aforementioned acts (leases, security agreements, mortgages, lease assignments, novation and IDERAs) the solemnity of being granted by a public deed or by a private instrument authorized before a Notary Public. Therefore, it is not possible to celebrate them through the use of an electronic signature.

To comply with these solemnities, foreign leasing companies grant powers to representatives in Chile to execute acts and contracts in Chile.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

In accordance with the previous point, it is not possible to execute aeronautical contracts using electronic signatures.

However, it is possible to execute acts and contracts of common civil legislation using electronic signatures. In this case, an advanced electronic signature should be used. The advanced electronic signature is granted by a local electronic signature provider accredited by the Ministry of Economy and certifies the identity of the signatory, also attesting to the date and time of the signature. Therefore, documents signed with advanced electronic signatures have the quality of a Public Instrument.

3) Does the Aviation Authority in Chile use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No. The General Directorate of Civil Aeronautics maintains the National Aircraft Registry in which annotations are submitted by an e-mail request to the General Directorate of Civil Aeronautics

("DGAC"), regarding ownership, leasing, mortgages, operating authorization, among others. Although the submissions are made by e-mail, the register does not function through an electronic platform.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Chile?

No. It is not possible to upload documents electronically for registration before the DGAC.

5) Are there any documents that are not required for registration with the Aviation Authority in Chile but can be valid and enforceable by the use of some type of digital certification?

No. Aeronautical acts and contracts require, in accordance with the law, to comply with the respective solemnity depending on the act of contract, alongside the registration in the DGAC's registry, to be valid and enforceable.

6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Chile?

Yes. The Chilean judicial system has enabled a Judicial Virtual Office where the parties may file all types of petitions, lawsuits, appeals and kinds of procedural documents in electronic form, as long as they have a registered user.

The Judicial Virtual Office can be accessed at the following link: <https://oficinajudicialvirtual.pjud.cl/home/index.php>

7) Do the courts of Chile accept procedural documents executed digitally? Is there any specific certification required? Does Chile make any distinction between official digital signatures and private digital signatures?

Yes. The courts in Chile allow the filing of procedural documents by means of simple and advanced electronic signatures. Generally, the advanced electronic signature is required by courts to submit the power of attorney.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Generally, acts and contracts can be celebrated using an advanced or simple electronic signature with no additional formal requirements.

Chile

Continued...

However, as stated in response number one, the Law determines that the electronic signature cannot replace the special solemnity that some acts require, such as their annotation in a registry or to grant them by means of a public deed.

9) Can foreign entities not located in Chile execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Chile? Are there any other formalities required?

According to what has been previously stated, it is not possible to celebrate such acts using a digital signature due to the legal solemnities they require.

10) Does the Aviation Industry in Chile usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No. The use of encryption tools is not a widespread practice in the industry. Additionally, it should be noted that the registered documents are public and can be reviewed by anyone requesting the registration certificates.

As mentioned, acts and contracts related to aviation law must be executed through physical documents that later need to go through the process of notarization, and therefore, they cannot be replaced by digital instruments.

11) Are there any Notary or Apostille requirements in Chile? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

As previously mentioned, for acts and contracts subject to registration to be valid, they must be executed in accordance with legal formalities, particularly before a Notary Public. That is to say, Chilean law requires that they be granted in Chile or, if granted abroad, to be done before the Chilean consul.

Given the above, for the purposes of aeronautical contracts, it would not be possible to use the apostille, which can be used in the common civil legislation.

a. Has Chile implemented the e-Apostille program?

Yes. Chile has implemented the e-Apostille program, applicable to contracts that are not regulated in the aeronautical legislation.

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Colombia



Colombia

Law Firm: *Del Hierro Abogados*

Author(s): *Jose Elias Del Hierro Hoyos*

- 1) Is there specific legislation in Colombia ruling the use of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

Yes, the Document Management Program (PGD) was adopted by the Colombian Civil Aviation Authority. Code: GDOC-1.0-07-002 Version: 1 Date of approval: 07/29/2021. Information can also be found in Information Circular No. 022 Data Messages, Electronic Signatures and Digital Signatures in Technical and Administrative Documents of the Flight Standards Directorate.

Provenance principle: 5100.082.022 Key: GIVC-1.0-22-003 Version: 02 Approval date: 10/23/2020.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?**

All Aviation Service Providers and Operators, TAR or OMA that wish to incorporate in their procedures the electronic signature for the management of their technical documents must include in their MGM / (MCM), MPI/ (MOM), MDI (MIP), MGO (MO), as applicable, electronic signature procedures and controls that guarantee that such signature is equivalent to that of the handwritten signature or any other form of signature currently accepted or approved in the corresponding legislation by the Colombian State. Therefore, digital and/or electronic signatures must meet the legal requirements so that the data message in which they are incorporated complies with the attributes of originality, integrity and evidentiary validity.

- 3) Does the Aviation Authority in Colombia use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

Yes, the Aviation Authority in Colombia uses an electronic register for aircraft documents, including aircraft lease documents such as leases, security agreements, mortgages, lease assignments, novation agreements, and IDERAs (Irrevocable Deregistration and Export Request Authorizations). The authority maintains an electronic database that contains all the necessary information related to aircraft registration and ownership, as well as any related documents and agreements. This electronic register enables efficient and secure management of aircraft-related documents and transactions.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Colombia?**

Yes, it is possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments,

Novation and IDERAs with the Aviation Authority in Colombia, but it can also be physically.

- 5) Are there any documents that are not required for registration with the Aviation Authority in Colombia but can be valid and enforceable by the use of some type of digital certification?**

Yes, there may be aviation-related documents that are not required for registration with the Aviation Authority in Colombia but can be valid and enforceable by the use of some type of digital certification. For example, contracts related to aircraft leasing or sales, insurance policies, and other legal documents can be signed electronically and validated through digital certification. Similarly, documents related to aircraft maintenance and safety, such as maintenance records and safety inspections, can also be signed electronically and validated through digital certification. However, it is important to note that the acceptance of electronically signed documents by the Aviation Authority may depend on their specific policies and regulations.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Colombia?**

It is possible to upload lawsuits, pleadings and electronic procedural documents in Colombia. Law 2213 of 2022 allows the use of information and communication technologies in the management and processing of judicial proceedings in order to facilitate and expedite access to justice.

Technological means may be used for all actions, hearings and proceedings. The procedural subjects are allowed to act in the processes or proceedings through the available digital resources, avoiding face-to-face formalities or similar, which are not strictly necessary. Therefore, the proceedings will not require handwritten or digital signatures, personal presentations or additional authentications, nor will they be incorporated or presented in physical media.

- 7) Do the courts of Colombia accept procedural documents executed digitally? Is there any specific certification required? Does Colombia make any distinction between official digital signatures and private digital signatures?**

In Colombia, as a result of Law 2213 of 2022, the use of digital technology is encouraged to expedite the processing of legal proceedings. Courts accept procedural documents that are executed digitally as part of efforts to make the justice system more accessible and user-friendly. While face-to-face attention is prioritized, digital tools are utilized to provide greater flexibility and convenience for users, with exceptions made for cases of force majeure. These efforts aim to improve access to justice and enhance the efficiency of legal proceedings through the use of information and communication technologies.



Colombia
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8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

According to Law 527 of 1999, when there is a digital signature in a data message, it is presumed that the subscriber of the signature had the intention to credit that message and be linked to its content. The uses of digital signatures have the same force and effects as the use of a handwritten signature if certain attributes are incorporated, such as: it is the only person who uses it, it is susceptible of being verified, it is under the exclusive control of the person who uses it, it is linked to the information or message, in such a way that, if these are combined, the digital signature is invalid and it is in accordance with the regulations adopted by the government.

9) Can foreign entities not located in Colombia execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Colombia? Are there any other formalities required?

Digital signatures are recognized as valid for the execution of aircraft lease agreements or finance documents as long as they comply with the requirements set out in the regulations. This means that foreign entities not located in Colombia can execute these documents using digital signatures, which can be filed for registration with the Aviation Authority in Colombia.

However, it's important to note that the digital signature must be provided by a certification authority that is recognized in Colombia, and the signature must be created using a secure device or mechanism that ensures the integrity of the document.

Additionally, the lease agreement or finance documents must be accompanied by other required documents, such as the registration certificate of the aircraft, and must comply with other regulations regarding aircraft registration and operation in Colombia. In summary, foreign entities not located in Colombia can execute lease agreements or finance documents with digital signatures to be filed for registration with the Aviation Authority in Colombia as long as they comply with the requirements set out in the regulations, including the use of a recognized certification authority and compliance with other formalities.

10) Does the Aviation Industry in Colombia usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The use of digital tools such as blockchain technology for the control of aircraft documents in Colombia is not yet widespread in the aviation industry. While the use of electronic documents and signatures is becoming more common, most aircraft documents are still stored and managed in traditional paper format. However, the Colombian Civil Aviation Authority has expressed interest in exploring the use of blockchain technology for the management and sharing of aircraft and pilot records, as this technology offers advantages such as increased security, transparency, and efficiency.

11) Are there any Notary or Apostille requirements in Colombia? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Colombia implemented the e-Apostille program?

In Colombia, notary and apostille requirements apply to certain documents used in legal proceedings or transactions. To have legal effect in Colombia, a document may need to be notarized by a Colombian notary public and, if issued by a foreign country, apostilled in the country of origin who has signed the Apostille Convention. The applicability of these requirements to electronically executed aviation documents depends on the specific circumstances and type of document.

Electronic execution and delivery of aviation documents is possible but may require compliance with certain formalities, such as digital signatures or electronic authentication methods for notarization and obtaining electronic apostilles that comply with the requirements established by the Ministry of Foreign Affairs. Legal professionals with experience in Colombian aviation law can provide guidance on compliance with these requirements.

a. Colombia has implemented the e-Apostille program, which allows for the electronic issuance and authentication of apostilles. This program is managed by the Ministry of Foreign Affairs and eliminates the need to physically submit documents for authentication. The e-Apostille is issued in the form of a QR code that can be scanned to verify the authenticity of the document.

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Costa Rica



NASSAR ABOGADOS
CENTROAMÉRICA

Costa Rica

Law Firm: Nassar Abogados

1) Is there specific legislation in Costa Rica ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

No. Nevertheless, Costa Rica has a Law on Certificates, Digital Signatures and Electronic Documents N° 8454 ("Law"). Pursuant to article 1 of the Law, it is applicable to "to all kinds of transactions and legal acts, public or private, unless otherwise provided by law, or where the nature or particular requirements of the specific act or business are incompatible."

The Law refers to the functional equivalence of the digital signature to the autograph signature. In the certified digital signature, the authorship and responsibility of its owner will be presumed, unless proven otherwise. Nevertheless, the Law expressly states that the use of electronic documentation will not be exempt from formalities required by law, such as the certification of signatures by a Public Notary and fiscal stamps, among others.

Certain legal acts, such as mortgages and the lease agreements of aircraft registered in Costa Rica, must be granted or notarized in public deed before a Public Notary of Costa Rica for its electronic registration at the National Registry. Accordingly, in those cases, said Law is not applicable as there is a formality of a public deed that must be complied with.

The Law regulates two types of signatures the digital signature and the certified digital signature. The certified digital signature is issued by an authorized certifier in Costa Rica.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?

No, the Law does not regulate a specific technology. The regulation of the Law states that the digital certificate issued by the authorized certifier must comply with the INTE-ISO/IEC 17021 and INTE/ISO 21188 latest standards and the policies established by the Digital Signature Certifiers Directorate.

Pursuant to article 11 of the Law, the purpose of the digital signature is to warrant: a.) The legal link between a document, a digital signature, and a person; b.) The integrity, authenticity, and general non-alteration of the document, as well as the associated digital signature; and c.) The authentication or certification of the document and the associated digital signature only in the event of the exercise of public certifying powers. For that purpose, the Regulations to the Law state that the company in Costa Rica authorized as a certifier must, among others:

- Use at least one face-to-face verification and registration process for its subscribers.
- Keep a copy of the documentation used to verify the identity of the person.
- Register biometrically (photograph, fingerprints, etc.) the subscriber to whom a certificate will be issued.
- Require the use of secure signature creation modules,

with security certification indicated in accordance with international standards and the Policies established by the Digital Signature Certifiers Directorate.

- Establish a subscription agreement detailing the level of service offered and the duties and responsibilities of the parties.
- The Digital Signature Certifiers Directorate may establish any other requirement it deems pertinent as issuer and policy manager of the digital signature system.

The Law also allows the approval of foreign certificates, for which the following requirements must be met:

- The certificate is endorsed by a certifier registered in the country.
- It complies with the technical requirements established by the Directorate of Digital Signature Certifiers, and
- That there is a reciprocal agreement between Costa Rica and the country of origin of the foreign certifier.

3) Does the Aviation Authority in Costa Rica use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Costa Rica?

N/A.

5) Are there any documents that are not required for registration with the Aviation Authority in Costa Rica but can be valid and enforceable by the use of some type of digital certification?

As per consultation, this submitted question was reformulated as follows:

"Do the courts of Costa Rica consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?"

There is no case law that refers specifically to the Aviation Authority. It will depend on the nature of the document if it requires a formality for its validity, comes from another country, has a certified digital signature, or if there are conventions between institutions, among others.

6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Costa Rica?

Yes, by using the digital system of the Judicial Authority (called



Costa Rica Continued...

“Gestion en línea”), the person who does the filing must have a username and password, which is obtained at the Courts offices. The lawsuit must comply with the requirements stated in the Civil Procedures Code.

7) Do the courts of Costa Rica accept procedural documents executed digitally? Is there any specific certification required? Does Costa Rica make any distinction between official digital signatures and private digital signatures?

Yes, procedural documents executed digitally can be filed through the Court’s digital system, which admits documents signed with a certified digital signature. They are usually signed by the attorney, but they can also be signed by the legal representative of a company involved in the process, the plaintiff, the defendant, etc.

In the case of documents originating in other countries, they must be apostilled pursuant to article 294 of the Public Administration General Law.

Yes, the Law on Certificates, Digital Signatures and Electronic Documents N° 8454 regulates the simple digital signature and the certified digital signature. The latter is issued by a certifier authorized in Costa Rica, and according to article 10 of the Law, the certified digital signature will be presumed, unless proven otherwise, of the authorship and responsibility of its owner.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Article 11 of the Law states that the purpose of the digital signature is to warrant: a.) The legal link between a document, a digital signature, and a person; b.) The integrity, authenticity, and general non-alteration of the document, as well as the associated digital signature; and c.) The authentication or certification of the document and the associated digital signature only in the event of the exercise of public certifying powers.

To verify the above in certified digital signatures, the certifier in Costa Rica enabled a web page to validate that the digital signature complies with the guarantee of integrity and authenticity, which means that the document has not been modified after its signature, the guarantee of validity in time whereof the document was signed with a valid certified digital signature, and the seal of time that allows to confirm the existence of the signature or document in time.

In the cases of non-certified digital signatures and when digital signatures can be used as they are not incompatible with the law by the formalities stated therein, article 2 of the Law is applicable, which refers to the autonomy of the will of individuals to regulate their relations.

For instance, article 5 of the Law states that the use of electronic documents is valid for “the formation, formalization and execution of contracts”. Lastly, article 9 of the Law states that “Documents and communications signed by digital signature will have the same value and probative effectiveness as their equivalent signed in handwriting. In any legal norm that requires the presence of a signature, both the digital and the handwritten will be recognized in the same way.”

As even certified digital signatures can be repudiated, it is important to refer in private documents -specifically, contracts- the consent of the parties to use a non-certified digital signature, and therefore the agreement, its amendments, or

related documents signed in the said form will be enforceable between the parties.

It is of particular importance to use a digital signature application with which it can be verified that the person signing is who she says, as well as the integrity and inalterability of the document, and to keep the respective support with which the above can be proven, especially if any claim arises in connection therewith.

Also, depending on the nature of the document, it must comply with the formalities required for the filing, such as the fiscal stamps, certification of the signature, among others, pursuant to article 10 of the Law.

9) Can foreign entities not located in Costa Rica execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Costa Rica? Are there any other formalities required?

In the cases of registered aircraft in Costa Rica, a notarized version of the agreement must be filed at the Aviation Authority and the National Registry; any digital signatures must be certified and apostilled. Lease agreements that shall not be registered, such as wet leases, are admitted with a digital signature. Finance documents must be filed with the corresponding apostille, especially for the certification of a route or its renewal.

10) Does the Aviation Industry in Costa Rica usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in Costa Rica? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents? Has Costa Rica implemented the e-Apostille program?

In Costa Rica, all the documents that are issued outside of the country must be apostilled or legalized and translated to Spanish. This also applies to electronically executed documents. The above is based on article 294 of the Public Administration General Law.

For certain processes, documents are admitted electronically with no apostille, such as the noise certificate, airworthiness certificate, or registration certificate.

The authorities in Costa Rica admit the electronic apostille from other countries, which can be validated on an official website or with a QR code. Costa Rica has not implemented the e-Apostille program, and currently, the documents that are issued in Costa Rica must have the physical apostille stamped by the Ministry of Foreign Affairs.

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Croatia

ilej/partners
in cooperation with karanovic/partners

Croatia

Law Firm: *Ilej & Partners, in cooperation with Karanovic & Partners*

Author(s): *Boris Dvorščak and Vito Jankov*

1) Is there specific legislation in Croatia ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

There is no specific legislation in Croatia governing the use of documents executed with the use of digital platforms/ electronic signatures by the Croatian Civil Aviation Agency ("CCAA") specifically.

However, Regulation (EU) no. 910/2014 (the "eIDAS Regulation") established a framework for the use of e-signatures, e-seals, website authentication certificates, etc., for the entire EU area. In accordance with the eIDAS Regulation, all qualified electronic signatures have the equivalent legal effect of handwritten signatures.

On the other hand, all documents submitted to the Croatian Registry of Civil Aircrafts ("Registry") maintained by the CCAA must be executed with signatures certified by a notary public. Since Croatia has not yet implemented digital notarization systems, provisions of the eIDAS Regulation that deem equal the legal effect of qualified electronic signatures and handwritten signatures are still without effect in these matters.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

There is no requirement for qualified electronic signatures to be executed by use of a locally developed cryptographic platform.

However, in accordance with the eIDAS Regulation, all qualified electronic signatures must be a) uniquely linked to the signatory, b) capable of identifying the signatory, c) created using electronic signature creation data that the signatory can (with a high level of confidence) use under his sole discretion, and d) linked to the data signed therewith in such a way that any subsequent change in the data is detectable. Additionally, eIDAS Regulation prescribes in detail all technical requirements for qualified certificates and qualified trust service providers.

3) Does the Aviation Authority in Croatia use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The Registry is maintained in electronic form and keeps track of all civil aircraft, as well as the rights and encumbrances over such aircraft. Ownership rights, encumbrances (pledges and mortgages), lease on aircraft and pre-emption rights on aircraft all must be registered with the Registry.

While the Registry is partially available online (with easy access to information on manufacturer and type of aircraft, serial number, and information on the owner) and updated on a monthly basis, full access to the Registry, i.e., access to registered encumbrances and leases on aircraft is obtained either physically, directly at the CCAA, or via an official request for access to certain information (by post or by email). In addition, all documents pertaining to aircraft are submitted to the CCAA in their original form, with all signatures certified by a notary public.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Croatia?

It is not possible to upload electronic files for registration with the CCAA since the relevant regulations prescribe that any documents submitted to the CCAA for registration must be executed with handwritten signatures certified by a notary public and then submitted in their original form.

5) Are there any documents that are not required for registration with the Aviation Authority in Croatia but can be valid and enforceable by the use of some type of digital certification?

When there are no regulations prescribing other legal requirements pertaining to the execution of documents (e.g., a requirement of handwritten signature certified by a notary public, a form of notarial deed, etc.), all documents may be signed by a qualified electronic signature, with legal effect equal to that of a handwritten signature (in accordance with the eIDAS Regulation).

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Croatia?

It is possible to upload lawsuits, pleadings, and other procedural documents via the specialized "e-communications system" used by all courts, administrative bodies, state attorney's office, and other legal entities in proceedings before courts in Croatia. This service is managed by the Ministry of Justice and Public Administration, and its use requires prior registration with Croatia's "e-citizen" system and implementation through the ministry's internal system. The service is accessible only after full registration and implementation is completed.

Croatia

Continued...

7) Do the courts of Croatia accept procedural documents executed digitally? Is there any specific certification required? Does Croatia make any distinction between official digital signatures and private digital signatures?

The courts in Croatia accept procedural documents executed digitally by qualified electronic signatures. Only documents signed with a qualified electronic signature can be validly submitted to the courts and are of equivalent legal effects as handwritten signatures.

Advanced electronic signatures are also commonly used; however, with respect to the submission of procedural documentation in digital form to the courts specifically, only qualified electronic signatures are accepted.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

There are generally no formal requirements for the validity of documents executed by digital signatures. However, certain regulations and case law prescribe special forms in which the documents must be executed in (e.g., a security agreement for the establishment of a mortgage which is to be registered with the Registry of civil aircraft must be executed in the form of a notarial deed), and such special form often excludes the possibility of execution by digital signature.

9) Can foreign entities not located in Croatia execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Croatia? Are there any other formalities required?

Due to Croatian legislation prescribing that signatures on any documentation to be filed for registration with the Registry must be notarized by a notary public (and with Apostille if executed in a country for which an Apostille is required), digital signatures are not possible yet.

10) Does the Aviation Industry in Croatia usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Due to Croatian legislation and CCAA practice being very rigid with respect to paper forms of documents and signatures notarized, the use of digital tools, especially blockchain technology, is practically impossible.

11) Are there any Notary or Apostille requirements in Croatia? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Croatia implemented the e-Apostille program?

With respect to the execution of documents that require registration with any official Registry (including the Registry of

Civil Aircraft maintained by the CCAA), all such signatures must be notarized before a notary public of the country of execution. Regarding Apostille requirements, Croatia is a signatory of the 1961 Convention on Apostille and therefore recognizes the process of Apostille confirmation of documents issued by competent authorities on the territory of a foreign country.

Croatia has not implemented the e-Apostille program.

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Czech Republic



Czech Republic

Law Firm: *Kocián Šolc Balaščík*

Author(s): *Jiří Horník*

- 1) Is there specific legislation in the Czech Republic ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

The Czech Republic is a member of the European Union, and the use of digital platforms and electronic signatures for the purpose of generating/using e-documents is regulated at the EU level through the eIDAS Regulation (Regulation No. 910/2014 on electronic identification and trust services for electronic transactions in the internal market). At the local level, the EU rules are implemented through the Electronic Acts and Authorised Document Conversion Act (No. 300/2008 Coll.) and the Electronic Transaction Services Act (No. 297/2016 Coll.).

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

First of all, a specific “electronic data box” has been assigned to each legal entity and individual entrepreneur registered in the Czech Republic (others may use it voluntarily), and such entities and public authorities exchange communications (documents/information) with each other principally only through this data box (public authorities are required to do so, while standard users can do so as an option only). All legal entities may also exchange communications with each other through the data box on an opt-in basis. Foreign-based entities may also voluntarily apply to get access to their own data box.

The access to the databox is unique and sufficiently protected (standard cryptographic solutions are used).

When a data box user acts through the data box, such act (message) is considered as signed by the user without the need to meet any further requirements. When the data box user decides to communicate without using the data box and the applicable law requires that the identity of the signatory must be verified, then the signatory must use the relevant form of electronic signature, which is either an advanced electronic signature, advanced electronic signature based on a qualified certificate for electronic signatures, or qualified electronic signature (QES), with the latter offering the highest standard of identification and protection. In practice, advanced electronic signatures based on a qualified certificate are widely used in the Czech Republic, while a QES is used rather exceptionally by private entities (unlike public authorities, which principally can only use a QES).

This is without prejudice to the fact that contractual and other documents are often also signed by “standard electronic signatures”, either by inserting the picture of the signature into a

PDF version of the document or through more secure solutions offered by commercial providers, such as DocuSign.

- 3) Does the Aviation Authority in the Czech Republic use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No, the Czech Aviation Authority does not currently maintain an official electronic register of the relevant documents. The Aviation Authority is, however, obliged to accept electronic documents, including those signed electronically. In practice, this is facilitated by using the electronic data box.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in the Czech Republic?**

N/A

- 5) Are there any documents that are not required for registration with the Aviation Authority in the Czech Republic but can be valid and enforceable by the use of some type of digital certification?**

There is no difference between the types of documents. All rules described above apply to any type of document.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in the Czech Republic?**

Yes, in practice, most of the submissions are done through the electronic data box, i.e., it is a specific electronic message sent to the relevant authority. Currently, there is no “upload” option, although discussions on introducing e-files (which could facilitate uploading) are still ongoing.

- 7) Do the courts of the Czech Republic accept procedural documents executed digitally? Is there any specific certification required? Does the Czech Republic make any distinction between official digital signatures and private digital signatures?**

Yes, the courts do accept procedural documents executed digitally, and this is facilitated by using the electronic data box. In general, there are no specific requirements as to the form and certification of such documents; it highly depends on the purposes for which the documents are submitted. As outlined above, any submission made through the electronic data box does not need to be specifically certified. If there are documents attached to the submission which are required to

Czech Republic Continued...

comply with the specific certification, such documents must be submitted together with such certification. In this respect, it is worth pointing out that any paper original can be converted into a certified electronic version of such document.

There is no distinction between official and private signatures as long as they comply with the statutory requirements, i.e., with the rules based on the eIDAS Regulation; the certification authorities issuing relevant certificates necessary for creating electronic signatures may also be private entities.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

There are no formal requirements to be met or to be stipulated in the documents concerned in order to make the documents governed by Czech law valid if executed by electronic signatures; the parties enjoy, in this respect, freedom to contract and sign how they wish and agree upon. No prior agreement to sign electronically is required, and the document may even be executed by different means by each party (unless it is explicitly excluded by the parties themselves).

9) Can foreign entities not located in the Czech Republic execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in the Czech Republic? Are there any other formalities required?

It depends on what type of digital signature is used. If the digital signature complies with the QES standards under the eIDAS Regulation, then there is no doubt this can be used for the purpose of execution, as the QES must be recognised throughout the European Union. As concerns other types of signatures, including those from non-EU countries, it will highly depend on the requirements for the documents concerned (under the governing law).

10) Does the Aviation Industry in the Czech Republic usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The Aviation Industry currently does not use blockchain technology for the purpose of control of Aircraft Documents. However, time stamps and electronic seals introduced by the eIDAS Regulation are available in the Czech Republic and may be used for this purpose.

11) Are there any Notary or Apostille requirements in the Czech Republic? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

The requirements to notarise and apostille documents vary significantly depending on the type of document and the jurisdiction of the documents' origin. In general, contracts and agreements do not require notarised signatures. When corporate documents are submitted (in order to prove the identity of the entities to be registered in the Aircraft Registry),

notarisation or apostille may be required depending on the type of the documents and jurisdiction of origin.

a. Has the Czech Republic implemented the e-Apostille program?

No, at this time, the Czech Republic has not implemented the e-Apostille program.

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Dominican Republic



Dominican Republic

Law Firm: *Raful Sicard Polanco & Fernández*

Author(s): *María Esther Fernández A. De Pou, María Fernanda Pou Fernández, María Gabriela Pou Fernández (External Collaborator)*

1) Is there specific legislation in the Dominican Republic ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

No.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

N/A

3) Does the Aviation Authority in the Dominican Republic use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in the Dominican Republic?

N/A

5) Do the courts of the Dominican Republic consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?

Documents with digital signatures or certifications are admissible (valid and enforceable); they are considered to have the same probative value as traditional documents. Our domestic legislation recognises this probative value in Article 9 of Law No. 126-02 on Electronic Commerce, Documents and Digital Signatures, transcribed verbatim as follows:

“Article 9.- Admissibility and probative force of digital documents and data messages. Digital documents and data messages shall be admissible as means of evidence and shall have the same probative force granted to acts under private signature in the Civil Code and the Code of Civil Procedure.

Paragraph. In administrative or judicial proceedings, no information in the form of a digital document or data message shall be denied effectiveness, validity or binding and probative force solely on the grounds that it is a digital document or data

message or on the grounds that it has not been submitted in its original form” (Emphasis added).

In general, however, this validity is subject to certain registration and certification processes.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in the Dominican Republic?

Following the COVID-19 pandemic, the Judicial Council of the Judiciary issued a series of rules, especially Resolutions Nos. 006-2020 and 007-2020, recognising the application of virtuality in judicial proceedings, at which time the platform called “Judicial Service of the Judiciary” was created, allowing the virtual uploading of any document (claims, pleadings and procedural documents) necessary in the framework of a judicial process.

However, on September 14, 2021, the Ruling No. TC/0286/21, issued by the Constitutional Court of the Dominican Republic declared unconstitutional the aforementioned Resolutions, on the basis that these repealed rules should be established through a legislative process, not as a jurisdictional matter.

Consequently, on July 29, 2022, Law No. 339-22 was enacted, which enables and regulates the use of digital media for judicial processes and administrative procedures of the Judiciary, a legal provision that expressly states in its Article 7, textually as follows:

“Article 7.- Judicial portal. The Judicial Branch shall make available to users a judicial portal that will allow them to optionally make requests, submit matters and provide access to all information related to processes, procedures, public rulings, hearing roles and receive all types of documents of a public nature, without the need to travel in person to the jurisdictional bodies or administrative units of the Judicial Branch, in accordance with the regulations approved by the Plenary of the Supreme Court of Justice, upon payment of the corresponding fees or taxes established by law, when applicable.”

Nevertheless, it is important to note that while the legislation that creates the judicial portal is in full effect and the website exists, the process by which the public is going to be able to upload these lawsuits, pleading and procedural documents is still being implemented by the corresponding authority.

7) Do the courts of the Dominican Republic accept procedural documents executed digitally? Is there any specific certification required? Does the Dominican Republic make any distinction between official digital signatures and private digital signatures?

To date, the ordinary courts only accept electronically executed documents in criminal matters (certain restrictions are applied).

Dominican Republic

Continued...

Nonetheless, the Dominican Republic is actively making efforts to implement processes that aim to accept digitally executed documentation at a general level in the judicial system, given that these documents comply with the existing legal mandates mentioned above.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

According to Article 35 of Law No. 126-02 on Electronic Commerce, Documents and Digital Signatures, for documents executed by digital signature to be valid in the Dominican Republic, they must be certified by an institution duly registered and authorised by the Dominican Telecommunications Institute (INDOTEL).

In other words, only those signatures that are registered under the entities authorised by INDOTEL are generally valid in the Dominican Republic.

9) Can foreign entities not located in the Dominican Republic execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in the Dominican Republic? Are there any other formalities required?

All of these documents must be physically signed. If signed abroad, they must be legalized and apostilled for them to be valid in the Dominican Republic. If the country in which the document is being signed is not part of the Hague Agreement, then that jurisdiction's apostille equivalent must be presented.

10) Does the Aviation Industry in the Dominican Republic usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No. However, there are projects being made for these purposes.

11) Are there any Notary or Apostille requirements in the Dominican Republic? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

As previously established, all the documentation signed abroad has to be legalized and apostilled for it to be valid in the Dominican Republic. If the country in which the document is being signed is not part of the Hague Agreement, then that jurisdiction's apostille equivalent must be presented.

Notwithstanding the above, these Notary and Apostille requirements do not particularly affect the possibility of electronic execution and delivery of aviation documents in the country, provided that, to date, the Dominican Republic does not accept electronically executed documents in aviation matters.

a. Has the Dominican Republic implemented the e-Apostille program?

Yes.

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Ecuador

Ecuador

Law Firm: *CorralRosales*

Author(s): *Xavier Rosales, Verónica Olivo*

- 1) Is there specific legislation in Ecuador ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

There are no specific rules regarding the use of digital or electronically signed documents with the Aviation Authority. However, the Law on Electronic Commerce grants digital and electronically signed documents the same validity and enforceability as physically signed documents.

The Law on Electronic Commerce differentiates electronic signatures issued by a duly licensed issuer in Ecuador from other valid electronic signatures (i.e., DocuSign or similar systems). For use with government entities in Ecuador, including the Aviation Authority, an electronic signature issued by a duly licensed issuer in Ecuador is required.

Additionally, documents to be registered with the Aircraft Registry must be notarized, and there is still no notarial process that acknowledges electronic signatures. Therefore, for documents to be registered with the Aircraft Registry, physically signed documents are required.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

As mentioned in the answer to question 1), digital signatures are valid as long as it is an electronic, encrypted stamp of authentication on digital information, which confirms its integrity. However, for use with government entities, including the Aviation Authority, an electronic signature issued by a duly licensed issuer in Ecuador is required.

- 3) Does the Aviation Authority in Ecuador use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No, the Aircraft Registry is held physically.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Ecuador?**

N/A

- 5) Are there any documents that are not required for registration with the Aviation Authority in Ecuador but can be valid and enforceable by the use of some type of digital certification?**

Yes, any document holding an electronic signature is valid and enforceable. Any document to be sent, filed, or registered with the Aviation Authority, requires an electronic signature issued by a duly licensed issuer in Ecuador.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Ecuador?**

Yes, but the electronic signature needs to be issued by a duly licensed issuer in Ecuador.

- 7) Do the courts of Ecuador accept procedural documents executed digitally? Is there any specific certification required? Does Ecuador make any distinction between official digital signatures and private digital signatures?**

Yes, but the electronic signature needs to be issued by a duly licensed issuer in Ecuador.

- 8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

No, other than the digital signature being an electronic, encrypted stamp of authentication on digital information. No express consent by the parties is required.

- 9) Can foreign entities not located in Ecuador execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Ecuador? Are there any other formalities required?**

No, since the documents need to be duly notarized, and if granted outside of Ecuador, also apostilled.

- 10) Does the Aviation Industry in Ecuador usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?**

No.

Ecuador *Continued...*



11) Are there any Notary or Apostille requirements in Ecuador? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Yes. Any document to be filed with the Aircraft Register needs to be duly notarized and also apostilled if granted outside of Ecuador. There are no exemptions for digitally signed documents.

a. Has Ecuador implemented the e-Apostille program?

No.

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El Salvador



El Salvador

Law Firm: *Nassar Abogados*

Author(s): *Kelly Romero*

- 1) Is there specific legislation in El Salvador ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

No, there is no specific regulation related to the use of digital or electronic signatures by the Aviation Authority. However, El Salvador enacted the Electronic Signature Law ("Law"), and pursuant to article 6 of the Law, a simple electronic signature shall have the same legal validity as a handwritten one. With respect to its legal effects, the simple electronic signature shall not have evidentiary validity in the same terms as those granted by this Law to the certified electronic signature; nevertheless, it may constitute an element of proof.

In addition, article 29 establishes that authorities, officials, and government employees that provide public services and perform acts within the scope of their competence may sign them by means of a simple electronic signature.

Article 30 establishes that in those cases in which government officials or employees issue any document or carry out administrative acts that grant rights, impose fines, or provide confidential information, it will be necessary to use a certified electronic signature. The certification service provider shall state in the certificate the character with which it will sign electronically, as well as the limits of its competence.

The Law expressly establishes that certified signatures cannot be used in those acts where the law specifically requires certain legal solemnities for their validity, such as mortgages. Lease agreements of aircraft registered in El Salvador must be granted or notarized in public deed before a Public Notary of El Salvador for its electronic registration at the National Registry. Accordingly, in those cases, said Law is not applicable as there is a formality of a public deed that must be complied with.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

No, the Law does not regulate a specific technology. The regulation to the Law states that the digital certificate issued by the authorized certifier must comply with the following regulations: CEN EN 419 221 related to security on cryptographic modules, ETSI EN 319 411 part 1 related to digital signature and infrastructure- policies of security to companies that issue certificates; ETSI EN 319 411-1 section 6.5.2 related to cryptographic modules; ETSI EN 319 412-1 related to digital signature and structures of common data and FIPS 140-2 level 3 related to security requirements for cryptographic modules under the program of cryptographic module validation program.

- 3) Does the Aviation Authority in El Salvador use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in El Salvador?**

N/A.

- 5) Are there any documents that are not required for registration with the Aviation Authority in El Salvador but can be valid and enforceable by the use of some type of digital certification?**

As per consultation, the submitted question was reformulated as follows:

"Do the courts of El Salvador consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?"

There is no case law that refers specifically to the Aviation Authority. The enforceability of such documents will depend on the nature of the document, if it requires a formality for its validity if the document is issued in a foreign country, has a certified digital signature, if the company that provided the certificate is foreign, among others.

- 6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in El Salvador?**

No. Currently, our legal system does not provide for electronic filing.

- 7) Do the courts of El Salvador accept procedural documents executed digitally? Is there any specific certification required? Does El Salvador make any distinction between official digital signatures and private digital signatures?**

Pursuant to the Law, the acts and contracts granted or entered into by natural persons or companies and subscribed by means of electronic signatures are valid in the same manner and produce the same effects as those executed in writing and on paper. However, if due to the nature of such acts, the regulations require them to be executed with certain formalities (before a public notary, etc.) if such documents are executed

El Salvador
Continued...

electronically, they will not be valid and will not be admissible in court.

The Law established differences between a private digital signature and a certified signature; please refer to the response to question 1. The main difference is the probatory value granted to each of them; private digital signatures will have the value that a certain court grants, subject to specific general procedural rules, and the certified firm will have per-se evidentiary value.

implemented the e-Apostille program, and currently, the documents that are issued in El Salvador can have the physical apostille stamped by the Ministry of Foreign Affairs, or they can have the electronic apostilled, which can be obtained at <https://apostilla.rree.gob.sv>.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No, there are no formal requirements for a document executed by digital signatures to be valid. Article 6 of the Law establishes that a simple electronic signature shall have the same legal validity as a handwritten signature. Therefore, documents executed with digital signatures are valid as if they were executed with handwritten signatures, with the exception of those documents that require formalities for their validity (granted before public notary).

9) Can foreign entities not located in El Salvador execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in El Salvador? Are there any other formalities required?

Documents executed outside El Salvador must follow the formalities of the country of issuance -whether the signatures are digital or not-, but to be registered in El Salvador, such documents must be apostilled. Generally, finance documents on foreign aircraft are not subject to registration.

10) Does the Aviation Industry in El Salvador usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in El Salvador? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has El Salvador implemented the e-Apostille program?

In El Salvador, all the documents that are issued outside of the country must be apostilled or legalized and translated into Spanish. This also applies to electronically executed documents. For certain filings, documents are admitted electronically with no apostille, such as the noise certificate, airworthiness certificate, and registration certificate.

The authorities in El Salvador admit the electronic apostille from other countries, which can be validated on an official website or with a QR code. In January 2022, El Salvador

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Finland

LEXIA

Finland

Law Firm: *Lexia Helsinki*

Author(s): *Lexia Attorneys*

1) Is there specific legislation in Finland ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

No.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

3) Does the Aviation Authority in Finland use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

Yes.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Finland?

Yes, the Aviation Authority in Finland (Traficom) has an electronic service portal where applications and notifications can be filed.

5) Are there any documents that are not required for registration with the Aviation Authority in [jurisdiction] but can be valid and enforceable by the use of some type of digital certification?

No.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Finland?

Some lawsuits and cases can be filed through the electronic services of the district court. These are cases concerning undisputed debts.

The special courts and administrative courts have e-services through which documents may be sent.

Lawsuits, pleadings and procedural documents can, in most cases, be sent to the courts electronically via e-mail.

7) Do the courts of Finland accept procedural documents executed digitally? Is there any specific certification required? Does Finland make any distinction between official digital signatures and private digital signatures?

Yes. Usually, no specific certification is required.

Electronic signatures are divided into three different levels in the eIDAS Regulation (EU) No 910/2014. These are electronic signatures, advanced electronic signatures and qualified electronic signatures. The only qualified trust service provider in Finland is the Population Register Centre, which is the only provider in Finland providing signing certificates required for qualified electronic signatures. A qualified electronic signature is legally binding and indisputable in the whole EU. In Finland, it is not necessarily required to use a qualified electronic signature; often, an electronic signature of a "lower" level is accepted.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No.

9) Can foreign entities not located in Finland execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Finland? Are there any other formalities required?

No, it is not possible to register any Finance Documents with the Aviation Authority in Finland (Traficom). There is also no form prescribed by law for such Agreements.

10) Does the Aviation Industry in Finland usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Not to our knowledge.

11) Are there any Notary or Apostille requirements in Finland? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Documents issued abroad by a foreign authority (except in the Nordic countries) need to be legalised in order for the document to have the intended legal effect in Finland. Certain

Finland

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public documents in the EU are accepted without an Apostille according to an EU Regulation.

In Finland, you can only legalise a document with a handwritten signature or stamp, and thus electronically executed documents cannot be legalised in Finland.

However, Finland accepts electronically executed documents that have been legalised in another country.

a. Has Finland implemented the e-Apostille program?

No.

LEXIA

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France



France

Law Firm: *Odi-sé Avocats*

Author(s): *Matthieu de Varax*

1) Is there specific legislation in France ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

France's electronic signature legal regime lies within Regulation (EU) No. 910/2014 of July 23, 2014, and articles 1366 et seq. of the French civil code.

There is no specific rule as to the use of electronically executed documents by the Aviation Authority.

The Aviation Authority requires original documents to be provided for the purpose of registrations. Such originals may either be in wet ink or in electronic form (in the sense of electronic signatures with certificates provided by an EU regulation, "Electronic Identification Authentication and Trust Services" (eIDAS)).

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

Although there is no specific rule as to the use of electronically executed documents by the Aviation Authority, it should be noted that such documents are valid if a permissible identification procedure has been used, the signatories are properly identified, and the integrity of the document is guaranteed (articles 1366 and 1367 of the French civil code). The certification of the signatures must be provided by an eIDAS.

3) Does the Aviation Authority in France use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The register maintained by the Aviation Authority is accessible online and shows registrations that have been made in relation to a given aircraft. There is no specific register for Aircraft Documents and Aircraft Lease Documents.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in France?

No. The Aviation Authority requires registration files to be sent to it on paper. For registration of documents that have been electronically executed (such as Leases, Mortgages, Bill of Sale), the electronic original of said documents must be sent to the Aviation Authority by email.

5) Are there any documents that are not required for registration with the Aviation Authority in France but can be valid and enforceable by the use of some type of digital certification?

Any document executed through an electronic means in relation to an aircraft will be valid and enforceable if it complies with France's laws on electronic signature, whether or not it is required to be registered with the Aviation Authority. It should be noted, however, that registration of a lease with the Aviation Authority is advised as it shifts the burden of liability in the event of an incident involving the aircraft (the operator becomes solely liable instead of being jointly liable with the owner). In the case of a mortgage, such mortgage should also be registered as it conditions its effectiveness against third parties.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in France?

Yes. Pleadings and procedural documents may be sent to other parties, which are represented by a lawyer and to courts through an online platform for lawyers and courts only.

7) Do the courts of France accept procedural documents executed digitally? Is there any specific certification required? Does France make any distinction between official digital signatures and private digital signatures?

Yes. Documents should comply with France's laws on electronic signatures. There are no official digital signatures in France.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Electronically executed documents are valid if a permissible identification procedure has been used, the signatories are properly identified, and the integrity of the document is guaranteed (article 1174 in conjunction with articles 1366, 1367 of the French civil code). Some contracts may require specific wordings to be written by a specific person (for example, suretyship (cautionnement)). Such wording may be included in the contract under electronic form only if the procedure warrants that solely the relevant person could have included it.

Although it is common practice to include wording to that effect, Parties' express consent to using digital signatures is not required for the validity of contracts.

France

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9) Can foreign entities not located in France execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in France? Are there any other formalities required?

Yes.

10) Does the Aviation Industry in France usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in France? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

There are no apostille requirements in France. Documents may be presented to the Aviation Authority in French or English; documents in another language must be accompanied by a free translation in either French or English. As for French courts, documents must be presented in French or with a certified French translation. It should be noted that the commercial court and the court of appeal of Paris accept documents in English.

a. Has France implemented the e-Apostille program?

No.

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Germany



Germany

Law Firm: Arnecke Sibeth Dabelstein, Rechtsanwälte Steuerberater Partnerschaftsgesellschaft mbB

Author(s): Christine Kranich, LL.M., Katja Brecke, LL.M., Ulrich Stepler, LL.M

1) Is there specific legislation in Germany ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

Currently, there is no specific legislation in Germany ruling the using of documents executed with the use of digital platforms or any electronic signatures by the German Civil Aviation Authority (in German, "Luftfahrt-Bundesamt" or abbreviated "LBA"). However, submitting documents that are executed with electronic signatures will be accepted by the LBA if the document has been signed via DocuSign. Signatures created with DocuSign allow the specification of an ID code on the signature page. These ID codes can be traced back to DocuSign and provide proof of the authenticity of the signature.

If any person wants to submit a document to the LBA with an electronic signature not signed via DocuSign, the person should first check with the LBA whether that would be acceptable. The legal department of the LBA would, in such case, check whether such an electronic signature application is credible and the authenticity of the signatures secured.

In any event, it is not a way to submit documents that need to be provided in notarized (and if the notarization comes from a foreign notary also apostilled) form. This is in the particular case with the German Aircraft Mortgage Register, which is not at the LBA but at the Local Court Braunschweig and has much stricter rules in relation to the form of documents that need to be submitted to it in order to register a mortgage on an aircraft.

Furthermore, the official website of the LBA recommends submitting documents by using the postal service due to unencrypted communication via e-mail or fax, especially in the perspective of submitting inquiries containing personal data. The LBA further recommends submitting applications and documents by mail in their original form, especially when it comes to contracts, in order to ensure safety due to several hacker attacks in connection with the current war of Russia against Ukraine.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

Not applicable; see statement to 1) above.

3) Does the Aviation Authority in Germany use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The LBA does not have a digital register for Aircraft Documents and Aircraft Lease Documents. However, the LBA is currently

developing one, but solely for internal purposes. Aircraft Lease Agreements are anyway not registered in Germany, but a copy of each Lease Agreement (which could have electronic signatures) has to be submitted to the LBA.

The German Aircraft Mortgage Register is not yet electronic either. Moreover, whereas the aircraft registry with the LBA cannot be freely searched due to data protection laws, the Mortgage Register is searchable by third parties. However, until recently, a search request had to be sent by fax. Since this year, such requests may be submitted by e-mail. However, the results will still be sent by the Mortgage Register by fax and mail and not electronically. For registration and cancellation of an aircraft mortgage, most documents have to be submitted to the German Aircraft Mortgage Register in original (wet ink) form, and some even notarized and apostilled.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Germany?

Not applicable. See statement number three above.

5) Do the courts of Germany consider valid and enforceable documents executed by the use of some type of digital signature or certification, even if not registered (or registrable) by the local Aviation Authority?

Based on the eIDAS Regulation of 23 July 2014 on the harmonised electronic use and identification of e-signatures, digital signatures are generally recognised among the member states of EU. According to that Regulation, simple electronic signatures (SES) and advanced electronic signatures (AES) may not be denied legal effect and admissibility as evidence in legal proceedings solely because they are available only in electronic form.

Qualified electronic signatures (QES) have the same legal effect as handwritten signatures. If they are recognized in one EU Member State, they are also recognised as QES in all other Member States (Art. 25 eIDAS). However, in some instances, the local laws are more demanding.

If, in Germany, the law requires notarization of a document/ agreement, an electronic signature would not suffice (section 128 "Bürgerliches Gesetzbuch" or abbreviated "BGB").

As soon as the law legally regulates the written form, a handwritten signature is required (section 126 BGB). However, this can be replaced by the parties with a QES (section 126a BGB). In doing so, each party to the contract must provide an identical document with its QES. An AES or SES, on the other hand, does not satisfy the written form requirement (see also answer to question 8).

Germany Continued...



6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Germany?

Since 1 January 2022, the use of the German digital platform (in German: "Besonderes elektronisches Anwaltspostfach" and abbreviated "beA") is mandatory for lawyers as well as for courts as that courts have to accept documents sent by lawyers via beA. However, courts are not yet obligated by law to communicate with lawyers via beA; thus, courts may still send documents by regular mail. By using beA, a lawyer is able to transmit legal documents such as lawsuits, pleadings and other procedural documents digitally to all courts in Germany, except to the Federal Constitutional Court (Bundesverfassungsgericht). In addition, the courts use the beA as well in order to process documents for the lawyers involved.

7) Do the courts of Germany accept procedural documents executed digitally? Is there any specific certification required? Does Germany make any distinction between official digital signatures and private digital signatures?

Legal documents must be executed digitally and submitted via beA, which is the only way to submit documents to the court or opposing lawyers. The beA signature card must be set up by the Federal Bar Association (in German, "Bundesrechtsanwaltskammer" or abbreviated "BRAK") for every lawyer admitted to practice in Germany. It ensures the authenticity of the participants in this transmission channel through a secure directory service. P.O. box address and access authorisation are only assigned by the BRAK once the lawyer's admission has been verified. Therefore, a password and chip card are required.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

In general, all contracts can be concluded electronically unless the German Civil Code (in German "Bürgerliches Gesetzbuch" or abbreviated "BGB") requires a written form, as section 126 para. 3 BGB stated: the written form may be replaced by electronic form unless the statute leads to a different conclusion. If a written form is prescribed by statute, the document must be signed by the issuer with its name in its own hand or by its notarial certified mark (section 126 para. 1 BGB). Notarial recording replaces the written form (section 126 para. 4 BGB).

If the electronic form is to replace the written form prescribed by statute, the issuer of the declaration must add its name to it and provide the electronic document with a qualified electronic signature (section 126a para. 1 BGB). In the case of a contract, the parties must each provide a counterpart with such an electronic signature as described in the preceding sentence (section 126a para. 2 BGB).

Thus, the legislation distinguishes between so-called simple electronic signatures (SES), advanced electronic signatures (AES) and qualified electronic signatures (QES).

For the creation of a simple electronic signature, it is sufficient if the signature is inserted digitally into the document or if the name is reproduced at the end of the text. The signature must be decipherable and assignable to a specific person; e.g., the indication "lawyer" is not sufficient due to the lack of

a name. The signature must ensure that the person identified by the secure means of transmission is identical to the person who assumes responsibility for the content of the electronic document with the reproduced signature. Since they do not have to be forgery-proof or firmly linked to the other data, they have no security value. This includes, for example, a scanned signature, which can be forged or removed at any time, but also, in the case of e-mail, the name data in the address field or the mere mentioning of a name in the text.

An advanced electronic signature requires the following:

- The signature is uniquely attributable to the signatory.
- The identification of the signatory is possible.
- The signature is created using electronic signature creation data that the signatory can use with a high degree of confidence under its sole control.
- The subsequent modification of the data can be detected because the document is encrypted due to using a secret private key (cf. Art. 26 eIDAS Regulation).

The electronic form is based on a cryptographic encryption process, which is characterised by the use of two different keys, namely the secret private key and the public key, which is accessible to everyone. Both keys are contiguous, but the public key cannot be used to calculate the private one.

The process is as follows: The so-called hash value is calculated from the text of the document to be encrypted according to a known algorithm, which compresses the message. The calculated hash value is now encrypted with the private key of the signer. The unencrypted text is transmitted together with the encrypted hash value to the recipient, who can open the encrypted, compressed text with the signature verification key. The recipient receives the matching verification key either from the sender or from trust service providers, where this key is kept retrievable. The recipient can now decode the encrypted hash value with this public key and is then able to calculate the hash value from the unencrypted text using the known algorithm and compare this value with the decoded hash value transmitted to it. If these values match, the text has not been subsequently changed because otherwise, the hash value would also have changed.

A qualified electronic signature has all the characteristics of an advanced electronic signature and some additional requirements, which are explained below.

It is defined as "an advanced electronic signature that is created by a qualified electronic signature creation device, and which is based on a qualified certificate for electronic signatures" (Art. 3 No. 12 eIDAS Regulation).

Only trust service providers may issue the aforementioned qualified certificates, which additionally fulfil the requirements of the eIDAS Regulation (cf. Art. 3 No. 19 eIDAS Regulation). The certificates are electronic attestations that link the public signature verification key to the natural person and confirm the identity of a person. Trust service providers often require state recognition. Pursuant to § 126a paragraph 1 of the BGB, a declaration is required from the issuer that the electronic document is to be provided with a qualified electronic signature. For a signature to meet the requirements of Section 126a Para. 1 BGB, it is necessary on the one hand that the signature is based on a valid qualified certificate. On the other hand, the signature must be created with a secure signature creation device. The

Germany
Continued...

necessary security is ensured by the fact that the signature key can only be applied after the holder has identified itself, for example, by means of a smart card and a password or by means of a smart card and one or more biometric features.

Qualified electronic signatures for which a qualified certificate of a Member State of the EU is available are recognised as qualified electronic signatures in all other Member States; such signatures are thus equivalent to domestic qualified signatures (Art. 25 (3) eIDAS Regulation).

In contrast to the simple signature, creating a qualified signature, such as with beA, is much more demanding. There is a need for specific technical equipment as well as some effort to set up the card, in particular, the authorization process.

Furthermore, for the effectiveness of signing electronically, the parties also need to fulfill the following requirements:

- The parties must declare that they sign the document electronically.
- The parties are aware of the undersigning content.
- The party that has drawn up the agreement must keep a record of the signing process.

In summary, the effectiveness of electronic signatures depends on the respective contract/document that will be signed and the German law requirements provided it is a contract/document governed by German law.

9) Can foreign entities not located in Germany execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Germany? Are there any other formalities required?

Aircraft Lease Agreements may be submitted to the LBA with electronic signatures if that is permitted according to the applicable law of the lease agreement.

In relation to aircraft mortgage documents, please see our answer to number three above.

10) Does the Aviation Industry in Germany usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed-paper Aircraft Documents?

The use of blockchain technology is currently in development; e.g., Lufthansa Industry Solutions has launched the initiative "Blockchain for Aviation" (BC4A). The idea is to create a documentation system, especially for the maintenance area as well as for substituting printed-paper documents. The use of Aircraft Documents in electronic form has become more and more popular; however, there are still certain documents, in particular the on-board documents, which are needed in paper form.



11) Are there any Notary or Apostille requirements in Germany? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

According to section 128 of the BGB, there are some declarations that must be notarized, such as contracts in real estate law and in the law of succession. An electronic execution instead of a notarial one would lead to ineffectiveness; thus, documents and declarations that have to be notarized according to German law cannot be executed electronically.

As stated before, certain documents that need to be provided to the Aircraft Mortgage Register in a notarized (and apostilled, as applicable) form cannot be executed electronically by the parties.

a. Has Germany implemented the e-Apostille program?

Germany has still not introduced the e-Apostille program due to security concerns.

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Honduras



NASSAR ABOGADOS
CENTROAMÉRICA

Honduras

Law Firm: *Nassar Abogados*

Author(s): *Jessy Aguilar*

1) Is there specific legislation in Honduras ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

No. Nevertheless, the Law on Electronic Signatures (Decree 149-2013) and its Bylaw (Executive Agreement 41-2014) establish the regulation of the use and legal effectiveness of electronic signature.

The Law establishes that any electronic signature created or used outside Honduras shall produce the same effects as a signature created or used in Honduras, provided that they are issued by a reliable certifying authority and duly recognized at the international level and when these signatures present a degree of reliability as to the regularity of the details of the signature, as well as its legitimacy and validity.

Any manifestation with a representative or declarative character expressed or transmitted by an electronic means -whatever its means of transmission or storage- will have the same validity as those that were subscribed by paper and autographed signature, as long as the advanced electronic signature is used in the same.

The Law expressly states that the use of the electronic signature will not be applicable to the acts or contracts granted or celebrated in the following cases: 1) Those in which the Law requires a solemnity that cannot be fulfilled by means of an electronic document; and 2) Those related to Family law.

The Law regulates two types of signatures: the digital signature and the certified digital signature. The certified digital signature is issued by an authorized certifier.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

No, the Law does not regulate a specific technology. The applicable regulations state that the advanced electronic signature will always be of general application, proving the existence of obligations and giving access to the registration of these documents in the public registries. However, in order to promote digital transformation, the government may grant the equivalence of effects to the advanced electronic signature for certain cases to other types of signature or means of identification of persons, among others, as follows: 1) Hybrid technologies based on Public Key Infrastructure (PKI) and Biometric Signature or any other equivalent or substitute technology; 2) Cloud-based electronic signature systems; 3) Two-factor systems; 4) Biometric systems including photographic means; 5) Others that may be developed as technologies advance.

For advanced signatures, the Regulations to the Law state that these signatures shall have the following minimum characteristics:

- 1) Based on an electronic certificate issued by a Certification Service Provider.
- 2) It is unique to the holder of the electronic signature, and each data message signed by the holder.
- 3) Both the signature and the signed message are encrypted using robust cryptographic mechanisms.
- 4) It is added or logically associated to the data message in such a way that it is possible to detect if the electronic signature has been altered.
- 5) It is generated under the exclusive control of the holder of the electronic signature.
- 6) It is susceptible to verification.
- 7) It is generated by means of a confidential and secure electronic signature creation device.
- 8) It is based on a specific methodology used to create and verify the subscriber's electronic signature imposed in the data message.

3) Does the Aviation Authority in Honduras use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Honduras?

N/A.

5) Are there any documents that are not required for registration with the Aviation Authority in Honduras but can be valid and enforceable by the use of some type of digital certification?

As per consultation, this question was reformulated as follows:

"Do the courts of Honduras consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?"

There is no case law that refers specifically to the Aviation Authority. It will depend on the nature of the document, if it requires a formality for its validity, comes from another country,

Honduras Continued...

has a certified digital signature, or if there are conventions between institutions, among others.

6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Honduras?

On November 11, 2020, the Law on Electronic Management of Judicial Proceedings (Decree 146-2020) entered into force, whereby the Electronic Judicial File System (SEJE) was created for the purpose of creating electronic judicial files with the set of proceedings, documents and other digital files associated with a given jurisdictional case. Likewise, it allows the presentation of lawsuits, pleadings and other documents, the issuance of judicial resolutions, notifications and other procedural actions that are carried out in judicial processes. To date, the system has not been developed or implemented; therefore, it is currently not possible to upload lawsuits, pleadings, and procedural documents electronically in Honduras.

7) Do the courts of Honduras accept procedural documents executed digitally? Is there any specific certification required? Does Honduras make any distinction between official digital signatures and private digital signatures?

At this time, the courts of Honduras do not accept procedural documents executed digitally.

Yes, the Law on Electronic Signatures regulates the simple digital signature and the certified digital signature. The latter is issued by a certifier authorized, and the certified digital signature, it will be presumed, unless proven otherwise, of the authorship and responsibility of its owner.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Pursuant to article 8 of the Law, an electronic signature will be considered reliable by means of the fulfillment of the requirements as long as it includes the following: 1) The signature creation data, in the context in which it is used, corresponds exclusively to the signatory; 2) It is susceptible of being verified; 3) The signature creation data were, at the time of signing, under the signatory's exclusive control; 4) It is possible to detect any alteration of the electronic signature made after the time of signing; 5) It is linked to the information or data message, such that if these are changed, the electronic signature is invalidated; and, 6) It conforms to accepted regulations.

By electronic means, all types of acts, contracts and any other type of legal business may be held if it is possible to reliably show the will of the parties to carry out the legal business by that means. The consent of the parties is proven by the exchange of emails, videos, voice recordings, exchange of text messages, electronic acceptance of standardized contracts or by sending an electronic self-portrait holding the identity document visibly next to the face of the signatory taken through the corresponding application prior to sending the respective application or form.

9) Can foreign entities not located in Honduras execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Honduras? Are there any other formalities required?

Yes, foreign entities can execute Lease Agreements or any Finance documents with digital signatures. However, these documents must be notarized and apostilled for their registry.

10) Does the Aviation Industry in Honduras usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in Honduras? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents? Has Honduras implemented the e-Apostille program?

In Honduras, all the documents that are issued outside of the country must be apostilled or legalized and translated to Spanish. This also applies to electronically executed documents pursuant to article 398 of the Administrative Simplification Law.

For certain processes, documents are admitted electronically with no apostille, such as the noise certificate, airworthiness certificate, and registration certificate.

Yes, Honduras has implemented the e-apostille program. Digital apostilles are issued by the Ministry of Foreign Affairs.

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India



India

Law Firm: Advaya Legal

Author(s): Ramesh Vaidyanathan, Mansi Singh, Pratik Bhat

1) Is there specific legislation in India ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

The Information Technology Act, 2000 ("IT Act") provides the legal framework for electronic signatures in India, enabling them to have the same legal effect as physical signatures when done in the manner prescribed under the IT Act.

All types of contracts can be executed using electronic signatures except the following:

- a negotiable instrument such as a promissory note or a bill of exchange;
- a power-of-attorney;
- a trust deed;
- a will or any other testamentary disposition; and
- a contract for the sale or conveyance of immovable property or any interest in such property.

Electronic signatures and documents executed with the use of digital platforms are accepted by the local aviation authority (Directorate General of Civil Aviation - DGCA), and no separate legislation exists for governing electronic signatures or digital executions within the aviation industry in India.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

For an electronic signature to be considered reliable and presumptively valid under the IT Act:

- it must be unique to the signatory;
- at the time of signing, the signatory must have control over the data used to generate the electronic signature;
- any alteration to the affixed electronic signature or to the document to which the signature is affixed must be detectable;
- there should be an audit trail of steps taken during the signing process; and
- The signer certificates must be issued by a certifying authority recognized by the Controller of Certifying Authorities appointed under the IT Act.

3) Does the Aviation Authority in India use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

Yes, the DGCA maintains an electronic register for aircraft documents and lease documents. The DGCA has implemented the e-Governance of Civil Aviation ("eGCA") project, which aims to digitize and automate various aspects of aviation administration, including aircraft registration and leasing.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in India?

Yes, it is possible to upload electronic files of documents such as lease agreements, extension of lease documents, IDERA, etc., on the e-GCA portal for registration with the DGCA.

5) Are there any documents that are not required for registration with the Aviation Authority in India but can be valid and enforceable by the use of some type of digital certification?

While all aviation-related documents (except for power of attorneys) can be digitally certified/executed, they must necessarily be filed/registered with the DGCA if DGCA has to take them on record.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in India?

E-filing (electronic filing of legal papers, including pleadings and procedural documents) is accepted in almost all courts in India, including the Supreme Court of India and the various High Courts. However, certain lower courts, such as the Metropolitan Magistrate Courts, have not accepted e-filing until now.

7) Do the courts of India accept procedural documents executed digitally? Is there any specific certification required? Does India make any distinction between official digital signatures and private digital signatures?

Yes, the courts of India accept procedural documents executed digitally (barring a few exceptions mentioned above). A licensed Certifying Authority issues the digital signature. Certifying Authority means an entity that has been granted a license to issue a digital signature certificate under the IT Act. Three classes of digital signature certificates ("DSC") are issued in India, i.e., Class 1 DSC, Class 2 DSC and Class 3 DSC. Each class of digital signature certificate is associated with specific security features and corresponds to a specific level of trust.

India

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Private digital signatures such as DocuSign are also identified in India. However, DocuSign is not used for statutory filings where Class 3 DCS is used.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

The law upholds digitally executed documents, and the parties do not need to expressly consent to the use of digital signatures in the agreements.

9) Can foreign entities not located in India execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in India? Are there any other formalities required?

Yes, foreign entities not located in India can execute lease agreements or any finance documents with digital signatures. The signatory must be authorized by the board resolution of the foreign entity, and any executed document that is brought into India (including in the electronic form) entails payment of applicable stamp duty.

10) Does the Aviation Industry in India usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

While the aviation industry in India is beginning to adopt digital tools for certain purposes, the use of blockchain technology for the control of aircraft documents is not yet widespread. However, the DGCA has been exploring the use of blockchain technology for purposes such as the management of aircraft records and maintenance logs, as well as the tracking of drones and other unmanned aerial vehicles.

11) Are there any Notary or Apostille requirements in India? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has India implemented the e-Apostille program?

Yes, India has implemented the e-Apostille program for the attestation of documents. The program provides a centralized platform for document verification/attestation/apostille service for Indian citizens and foreigners who have obtained documents from document-issuing authorities in India. Certain documents filed with the DGCA are required to be notarised and apostilled, and in such cases, coloured scanned copies of the notarised and apostilled documents can be filed electronically.

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Israel

S.HOROWITZ & CO.

Israel

Law Firm: *S. Horowitz & Co.*

Author(s): *Eyal Doron, Hugh Kowarsky, Tammy Riesenber*

1) Is there specific legislation in Israel ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

The Israeli Aviation Law, 2011 (the "Aviation Law") and its regulations do not refer to the use by the Civil Aviation Authority of Israel (the "CAAI") of documents executed with the use of digital platforms or electronic signatures. In practice, an application for registering a pledge on an aircraft must be delivered in hard copy to the Aircraft Registrar at the CAAI (original documents or certified copies must be delivered). However, there are applications that can be delivered to the Aircraft Registrar by filing a digital form, such as an application for the allocation of aircraft nationality and registration marks, and there are also applications that can be submitted to the CAAI by e-mail, such as an application to receive a certificate of airworthiness.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?

3) Does the Aviation Authority in Israel use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The CAAI does not use an electronic register for Aircraft Documents or Aircraft Lease Documents. Pursuant to Section 59(b) of the Aviation Law and Regulation 4(a) of the Aviation Regulations (Registration and Marking of Aircraft), 1973, the aircraft register at the CAAI (the "Aircraft Register") includes details regarding the aircraft, such as details of its owner, pledges and foreclosures imposed on the aircraft, nationality and registration marks and manufacturer.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Israel?

5) Are there any documents that are not required for registration with the Aviation Authority in Israel but can be valid and enforceable by the use of some type of digital certification?

If the pledgor is a company pursuant to the Israeli Companies Law 5759-1999, an agreement providing for the creation of a pledge over an aircraft may be valid and enforceable by virtue of its registration at the Israeli Registrar of Companies. Registration at the Israeli Registrar of Companies may be performed online if

the documents filed bear electronic signatures. Such electronic signatures may be effected only by the use of a specific system known as the national identification system or of a card containing an electronic chip for the electronic identification of the cardholder used for the purpose of electronic signature on documents. However, please note that such a pledge will usually also be filed with the Aircraft Registrar. Also, please note that certain lenders in favour of which such a pledge may be registered, such as banks, do not accept electronic signatures and documents must be signed and delivered in hard copies.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Israel?

Yes. In accordance with the Instructions relating to Filing a Digital Document to the Courts and the Labour Tribunals regarding the Civil Procedure Regulations, 5769-2018 (hereinafter "the Instructions" and "the Civil Procedure Regulations") and according to Section 165 (b) of the Civil Procedure Regulations, it is permissible to file electronic documents to the courts through the judiciary website ("Net Hamishpat" - Law Site). However, according to Section 162 of the Civil Procedure Regulations, there are four exceptions to this permit:

- (1) the first document to be filed in the case or a statement of claim will be served on the addressee (not being a court) by mail or by messenger unless the recipient had agreed otherwise in writing;
- (2) if the sender is not the court and the addressee is a party not represented by a lawyer, unless the addressee has agreed to it in writing;
- (3) the document, by its nature, is not one which can be served by electronic means;
- (4) the document is the first document to be filed in a case being conducted before the Supreme Court.

7) Do the courts of Israel accept procedural documents executed digitally? Is there any specific certification required? Does Israel make any distinction between official digital signatures and private digital signatures?

The courts do accept documents executed digitally. Until September 5, 2022, the filing to the courts of documents executed digitally was possible on condition that the document and its attachments were signed by the filing party using "an approved digital signature" as defined in the Electronic Signature Law, 5761-2001 ("the Electronic Signature Law" or "the Law"). In accordance with the Notice to the Media issued by the Court Management on September 6, 2022, as of that day, advocates and parties not represented by advocates are able to file with "Net Hamishpat" (the court website) claims and other documents in proceedings conducted in the courts and the Labour Tribunals without digital signature of the document.

Israel
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According to the Electronic Signature Law, when a law requires a signature of a person on a document, this requirement may be met with respect to a document that is an "electronic message" by "a certified electronic signature."

The Electronic Signature Law does not use the terms "official electronic signature" or "private electronic signature" appearing in the above question but defines three types of signatures:

1. "electronic signature" - "a signature which is electronic information or an electronic signal applied or connected to an electronic message";
2. "secured electronic signature" - an electronic signature which is unique to the owner of the means of signature; enables the identification, prima facie, of the owner of the means; is created by means of a signature subject to the exclusive control of the owner of means of signature; and enables the identification of a change made in the electronic message after the date of the signature.

and

3. "certified electronic signature" - a "secured electronic signature that a certifying authority has issued a certified electronic certificate, regarding the means of verifying the signature, that identifies it.

An electronic message signed by a secured electronic signature is admissible in any legal proceeding and will constitute evidence prima facie: (1) that the electronic message was not altered after the time of its signature; (2) that the electronic message was signed by means of signature recognized by means of verifying the signature found in the electronic certificate attached to the electronic message, as far as it was attached; (3) with respect to an electronic message signed by a certified electronic signature - also as to that the electronic message was signed by the owner of the means of signature.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

As indicated above, according to Section 3 of the Electronic Signature Law, an electronic message signed by a "secured electronic signature" will be admissible in any legal proceeding and will constitute, inter alia, prima facie evidence that - (1) the electronic message was not changed after the date of its signature; (2) the electronic message was signed by means of signature recognized by means of signature verification; and (3) with respect to an electronic message signed by a certified electronic signature (as defined in the Electronic Signature Law) - also that the electronic message was signed by a person who was issued the means of signature.

A "secured electronic signature" is an electronic signature that meets all the conditions laid down in Section 1 of the Electronic Signature Law, i.e., it is exclusive to the owner of the means of signature; it enables the prima facie identification of the owner of the means of signature; it was produced by means of signature under the sole control of the owner of the means of control; and enables identification of a change made in the electronic message after the date of signature.

"means of signature" means "exclusive software, object or information needed for the production of a secured electronic

signature';

"electronic message" - information that is created, sent, received or saved by electronic or optical means when it is seen, read, heard or retrieved by said means.

We are not aware of a requirement (by law or case law) that the consent of the parties to the use of digital signatures be expressly referred to in the agreement.

9) Can foreign entities not located in Israel execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Israel? Are there any other formalities required?

Lease Agreements and Financial Documents are not submitted for registration (for example, in order to register a pledge on an aircraft in the Aircraft Register, it is not required to submit a pledge agreement). As aforesaid, in order to register a pledge on an aircraft, original documents or certified copies must be delivered physically to the Aircraft Registrar. The documents can be submitted by the parties thereto and/or someone on their behalf so that the presence of the parties is not required. As far as the signature of the documents is concerned, we are not aware of formal instructions or guidelines in this regard, but the expectation of the authorities (Based on an inquiry) is that the documents would be signed physically (rather than electronically).

In order to operate a leased aircraft, the lessee must provide the CAAI director with a copy of the Lease Agreement, which includes the details specified in Regulation 48 of the Air Navigation Regulations (Operation of Aircraft and Flight Rules) 1981, within 72 hours of its execution, and a copy of such Lease Agreement must be kept on the aircraft. Further, the lessee or the registered owner of the aircraft, if the lessee is not an Israeli citizen or permanent resident of Israel, must notify the CAAI director or someone on his behalf at least 48 hours before the first departure of the aircraft under the lease agreement, such notice to include the name of the airport from which the aircraft is to depart, the date of the departure and the registration mark of the aircraft.

10) Does the Aviation Industry in Israel usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Based on our research, the Aviation Industry in Israel uses printed paper documents for control of Aircraft Documents. For example, an aircraft registration certificate and a certificate of airworthiness are printed paper documents. In some cases, the legislation allows documents to be managed electronically by those who are required to do so pursuant under law. For example, according to Regulation 45(a) of the Air Navigation Regulations (Maintenance Approved Organizations), 2013 (the "MAO Regulations"), the holder of a license to operate an approved maintenance organization may maintain a file, list or documentation that must be maintained according to the MAO Regulations using a computerized system, provided that the system is secured against changes by unauthorized persons, and is backed up by a computerized file that will be updated no later than twenty-four (24) hours after any change made. On the other hand, according to Regulation 45(b) of the MAO Regulations, if the director of the CAAI or someone on his behalf

Israel

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asks to review the aforementioned file, list or documentation, the license holder is required to provide him with a printout of the file, list, or documentation requested.

11) Are there any Notary or Apostille requirements in [jurisdiction]? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Israel implemented the e-Apostille program?

Yes. Notarization of a wide range of documents is required in Israel, including documents produced in Israel for use in Israel, as well as documents produced outside Israel for use in Israel. Examples of documents of the latter type are an affidavit intended for submission in proceedings before an Israeli court, a deed of sale for registration in the relevant local Land Registry of a transaction in real property located in Israel and in some cases, a power of attorney. Such a document also requires verification by apostille attached to it or legalization by the Israeli consul in the country in which the document is signed.

Further to Israel's Electronic Signature Law (see response to question 7 above) and Israel's participation in actions taken presumably with respect to the modernization of the Hague Apostille Convention, to which Israel is a party, the Israeli Ministry of Justice has established a system enabling notarization by electronic signature and electronic application of the apostille in Israel, including electronic delivery of the documents. The ESL empowers the Registrar appointed under that Law to recognize an entity approving electronic signatures in a foreign country abroad as an approving entity under the Law, thus enabling reciprocal recognition of electronic signatures between Israel and the foreign country in question. The ESL also provides that the admissibility of a signature shall not be refused merely because it is an electronic signature.

As indicated in the response to question 1 above, the Israeli aviation authorities are willing, in some cases, to accept electronic delivery of documents (instead of hard copies thereof) and hence it is possible, in the light of the provisions of the Electronic Signature Law, that in cases where a document submitted to the authorities requires notarization and the apostille (in general, that is not required), electronic signatures and delivery of the documents will be (and perhaps may have to be) accepted by the authorities.

a. Has Israel implemented the e-Apostille program?

See above.

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Italy



Italy

Law Firm: *Studio Pierallini*

Author(s): *Laura Pierallini*

1. **Is there specific legislation in Italy ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

In Italy, the use of electronic signatures is governed by the Electronic Identification and Trust Services (eIDAS) Regulation (Regulation No. 910/2014 of the European Parliament and of the Council of 23 July 2014), which establishes a legal framework for electronic transactions across member States. Next to eIDAS, the primary legislation that governs electronic signatures in Italy is the Legislative Decree No. 82 of 7 March 2005 (also called "Codice dell'amministrazione digitale" or CAD), as subsequently amended and supplemented. Although the CAD mainly intended to regulate public administrations, some of its provisions, including those on electronic signatures and electronic documents, are also applicable to individuals and businesses.

2. **If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

In accordance with Article 1 of CAD, digital signatures qualify as "a particular type of qualified signature based on a system of cryptographic keys, one public and one private, related to each other, which allows the holder through the private key and a third party through the public key, respectively, to make manifest and to verify the origin and integrity of an electronic document or set of electronic documents. Therefore, the digital signature is a particular type of qualified electronic signature (regulated under the eIDAS Regulation), characterized by specific technologies that, by reversing the cryptographic signature procedure, allow parties to verify the integrity and security of an electronic document.

3. **Does the Aviation Authority in Italy use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The Civil Aviation Authority in Italy (Ente Nazionale per l'Aviazione Civile - ENAC) uses an electronic register for Aircraft Documents and Aircraft Lease Documents, but only for internal organisation and is not accessible to the public.

4. **If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Italy?**

All documents can be sent to ENAC also via certified email (Posta Elettronica Certificata - PEC).

5. **Are there any documents that are not required for registration with the Aviation Authority in Italy but can be valid and enforceable by the use of some type of digital certification?**

In Italy, while certain documents may not be required for registration with the Aviation Authority, they can still be valid and enforceable through the use of digital certification, such as digital signatures. The use of digital certification can provide additional evidentiary value and ensure the integrity and authenticity of the documents.

For example, in the aviation industry, various agreements, contracts, and legal instruments may not necessarily need to be registered with the Aviation Authority. However, utilizing digital certification, such as qualified electronic signatures (QES) or advanced electronic signatures (AdES), can enhance the trustworthiness and legal validity of these documents.

By digitally signing such documents with a QES or AdES, parties can demonstrate their intent to be bound by the terms and conditions stated in the document. The digital certification helps establish the integrity of the document and provides evidence of the identity of the signatories, thus contributing to its enforceability.

6. **Is it possible to upload lawsuits, pleadings and procedural documents electronically in Italy?**

Yes, with the digital transformation of civil proceedings, any judicial document can be filed electronically with all Courts in Italy. With Law No. 221 of 17 December 2012 (as subsequently amended and supplemented), electronic transmissions of all communications (to lawyers, professionals and parties) is mandatory.

7. **Do the courts of Italy accept procedural documents executed digitally? Is there any specific certification required? Does Italy make any distinction between official digital signatures and private digital signatures?**

Yes. Italian Courts have been implementing an electronic system, which, among others, makes it possible to process documents electronically. In Italy, there is a distinction between different types of digital signatures, but it is not based on whether they are official or private. Instead, the distinction is made based on the level of trust and security provided by the digital signature.

The main types of digital signatures recognized in Italy are as follows:

1. **Advanced Electronic Signatures (AdES):** AdES is a type of digital signature that meets specific technical requirements set forth in the law. AdES provides a higher level of security compared to basic electronic signatures but does not have the same legal presumption of validity as qualified electronic signatures.



Italy
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2. Qualified Electronic Signatures (QES): QES is a specific type of advanced electronic signature that meets additional requirements established by law. QES is based on a qualified certificate issued by a regulated, qualified trust service provider. QES carries a higher level of trust and the legal presumption of validity. It is considered equivalent to a handwritten signature and provides strong evidential value in legal proceedings.

It's important to note that both AdES and QES can be used for both official and private purposes. The distinction lies in the level of trust and legal recognition they offer rather than their specific usage.

8. Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

In Italy, there are certain formal requirements for the validity of documents executed by digital signatures. The consent of the parties to the use of digital signatures does not necessarily have to be expressly referred to in the agreement, but it is recommended to include provisions regarding the use of digital signatures to ensure clarity and avoid any potential disputes. Under Italian law, electronic documents and signatures are generally considered legally valid and enforceable. However, for certain agreements that require the written form, it is important to ensure that the use of a digital signature meets the specific legal requirements.

9. Can foreign entities not located in Italy execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Italy? Are there any other formalities required?

Yes. Foreign entities not located in Italy may execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority. Furthermore, ownership may be registered with the Italian Aircraft Registry. Pursuant to Article 750 of the Italian Navigation Code, aircraft may be registered with the Italian Aircraft Registry, provided that certain nationality requirements are met.

In order to register a lease interest, a Lease Interest can be registered with the Italian Aircraft Registry by submitting to ENAC a copy of the relevant lease agreement previously filed with the Italian Public Registry of Private Deeds. If such a lease agreement was in a foreign language, the said registry and ENAC would require a sworn translation into Italian thereof.

10. Does the Aviation Industry in Italy usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The aviation industry worldwide is exploring the use of digital tools, including blockchain technology, for various purposes, including the management of aircraft documents. However, specific practices can vary from country to country and even among different companies within the same country. Italy is

also moving towards digitalization and exploring the potential benefits of using blockchain technology for aircraft documents, but it is not part of it yet.

11. Are there any Notary or Apostille requirements in Italy? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents? Has Italy implemented the e-Apostille program?

In Italy, notary requirements and apostille requirements are applicable to certain types of documents, including electronically executed documents. However, the specific application of these requirements to aviation documents may depend on the nature of the document and the applicable regulations in the aviation industry.

Regarding notary requirements, Italian law may require certain contracts or documents to be executed in the form of "public deeds." Public deeds involve specific formalities for their conclusion and typically require the involvement of a public official or a notary.

In the case of electronically executed documents, the parties may sign the document through a simple electronic signature. However, for the contract to be valid, it generally needs to be executed with the digital signature of the public official or notary.

Otherwise, the e-Apostille program is not enabled.

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Kenya



Kenya

Law Firm: *Anjarwalla and Khanna LLP*

Author(s): *Sonal Sejpal, Linda Ondimu and Elizabeth Kiluu*

1) Is there specific legislation in Kenya ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

The principal legislation on aviation in Kenya, the Civil Aviation Act No. 21 of 2013 (the Civil Aviation Act), does not make provision for the use of e-signatures. However, certain regulations under the Civil Aviation Act, such as the Civil Aviation (Air Operator Certification and Administration) Regulations, 2018 and Civil Aviation (Airworthiness) Regulations, 2018, extend the definition of a signature to include an electronic signature. Specifically, under these regulations, a "signature" is defined as an individual's unique identification used as a means of authenticating a maintenance record entry or maintenance record (emphasis ours). We would point out that the execution of documents by Kenyan companies would be governed by the provisions of the Companies Act No. 17 of 2015 (the Companies Act).

In Kenya, the legal recognition of electronic signatures is anchored on the Kenya Information and Communications Act (No. 2 of 1998) (KICA) and the Business Laws Amendment Act, 2020 (BLAA). Section 83P of the KICA mandates the relevant Minister to establish rules regarding the use of electronic signatures. To the best of our knowledge, no rules have so far been passed, and therefore the use of electronic signatures under KICA remains uncertain.

However, in 2020, several amendments were made to a variety of statutes by the BLAA, allowing parties to use electronic signatures to sign certain documents governed by the specific statutes including contracts which are governed by the Law of Contract Act (Cap 23 Laws of Kenya).

The Companies Act also recognises the use of electronic signatures. The term "sign" under the Companies Act includes the use of an electronic signature. This means that documents can be validly executed by companies incorporated in Kenya by electronic signatures, provided that the documents are executed either by two authorised signatories or alternatively by one director whose signature is witnessed as per section 37 (2) of the Companies Act. However, execution by a single director raises practical concerns, given that the director's signature has to be witnessed. Additionally, the Companies Act does not define what an "electronic signature" means, and therefore, there is some uncertainty as to what would amount to an "electronic signature."

We would also point out that there are some inconsistencies in the various laws governing the use of electronic signatures in Kenya. For instance, while the KICA requires an electronic signature to be authenticated by the issuance of a certificate, this authentication is not an express requirement under the Companies Act or any of the statutes amended by BLAA. The

provisions of the Companies Act, the BLAA, and other statutes amended by BLAA to allow for electronic signatures are yet to be sufficiently tested before the Kenyan courts, and therefore, it is not clear if a document signed electronically under these laws would be impervious from a claim of invalidity due to the failure to obtain an authentication certificate from an Electronic Certification Service Provider (an e-CSP) as required under the KICA.

It is unclear whether the use and recognition of e-signatures under other statutes independent of KICA and its shortcomings now provide additional flexibility for parties wishing to use electronic signatures when signing documents governed by those respective statutes or whether the Kenyan courts would hold that the KICA is the principal law on e-signatures and therefore the execution of documents by use of e-signatures under any other statute other than the KICA must comply with the specific requirements set out under the KICA.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

There is a variance in the requirements for a valid electronic signature under the different Kenyan statutes that recognise the use of electronic signatures. Under the KICA, there is a requirement that a "certificate" must be issued by an e-CSP to authenticate the digital signature. KICA defines a "certificate", and the definition presumes that every time a digital signature is used, the signature must be authenticated by an e-CSP. However, there are no corresponding substantive provisions in the KICA requiring the authentication of electronic signatures. We also note that the term "digital signature," which has been used in the definition of a certificate, is not defined under the KICA. The regulator, the Communications Authority of Kenya, has, however, indicated on its official website that the term "digital signature" refers to an advanced electronic signature (we note that the explanation on the website cannot be a substitute for a statutory authority).

Furthermore, the need for authentication through certificate issuance is not a requirement under any other statutes amended by the BLAA or the Companies Act. As mentioned above in question 1, the Companies Act and the BLAA do not outline any specific requirements regarding signatures, except for the Companies Act, which specifies the witnessing of a sole director's signature.

3) Does the Aviation Authority in Kenya use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The Kenya Civil Aviation Authority (KCAA) does not maintain

Kenya
Continued...



an electronic register of aircraft documents or aircraft lease documents. However, it has an e-service platform known as the Advanced Air Transport Information System (AATIS), which allows Kenyan operators or their agents to make certain applications to the KCAA, such as requests for lease approvals and permit applications.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Kenya?

Not applicable. Please refer to our response to 3 above.

5) Are there any documents that are not required for registration with the Aviation Authority in Kenya but can be valid and enforceable by the use of some type of digital certification?

Please refer to our responses to questions 1 and 2.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Kenya?

Yes, it is possible to upload lawsuits, pleadings, and procedural documents electronically in Kenya. The Kenyan legal system has embraced electronic filing (e-filing) systems rolled out by the judiciary to streamline court processes and improve efficiency. The Practice Directions on Electronic Case Management, 2020 (the Practice Directions) sets out the comprehensive framework for the functioning of the judiciary e-filing system.

The e-filing system allows litigants, lawyers, and other stakeholders to file and access court documents electronically.

Currently, judiciary e-filing systems are available for courts located in Nairobi and Mombasa.

7) Do the courts of Kenya accept procedural documents executed digitally? Is there any specific certification required? Does Kenya make any distinction between official digital signatures and private digital signatures?

Yes.

The Practice Directions allow for the filing of documents executed digitally. Direction 22 of the Practice Directions provides that a signature for electronically filed documents may take one of the following forms:

- (a) non-electronic signature, where the person may sign a document non-electronically, and the document shall be scanned for electronic filing;
- (b) computer tablet signature, where the person may electronically sign a document using a computer tablet or similar technology; or
- (c) login and password, if the person is a registered filer, the person may sign the document using the person's login and password, accompanied by a digitized or electronic signature.

Where a party uses an electronic signature pursuant to the Practice Directions, the same must comply with the provisions of the KICA as the definition of an electronic signature under the Practice Directions refers to the meaning ascribed to it under the KICA.

The Practice Directions presume the validity and authenticity of signatures on electronically filed documents unless convincing evidence is presented to prove otherwise. This means that unless there is credible evidence indicating that a signature is not authentic or valid, it will be considered as such.

We are not aware of any distinction between official digital signatures and private digital signatures under the Kenyan legal framework.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Please refer to our responses to questions 1, 2 and 7 above.

Whilst there is no requirement in law for the parties to consent to the use of e-signatures, from our experience, we have seen documents drafted with an express consent for the use of e-signatures, especially in transactions where parties anticipate that execution will be done by way of e-signatures.

9) Can foreign entities not located in Kenya execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Kenya? Are there any other formalities required?

Whilst Kenyan law recognises the use of electronic signatures (subject to the issues highlighted in our responses to questions 1 and 2 above), from our experience, different government registries, including the KCAA and the Companies Registry, often insist on wet-ink signatures before registering a document. In addition, the Collector of Stamp Duty may also insist on being provided with wet-ink signatures of documents such as lease agreements and finance documents for the purposes of assessing and stamping. Therefore, while a foreign entity can execute lease agreements or finance documents with digital signatures under foreign law, there can sometimes be practical challenges with the registration of documents in Kenya for the reasons stated above.

10) Does the Aviation Industry in Kenya usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The KCAA has several digital systems which allow for the provision of e-services such as the AATIS referred to above, the Mandatory Occurrence Reporting and Voluntary Occurrence Reporting.

While we appreciate that certain government agencies and departments have now embraced blockchain technology in their operations, we are not aware of any blockchain technology being employed by the KCAA.

Kenya Continued...



11) Are there any Notary or Apostille requirements in Kenya? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Kenya implemented the e-Apostille program?

Kenya has not ratified the Apostille Convention (Hague Convention of 1961) and therefore does not have apostillation requirements.

Notary services in Kenya have not been digitized. The process of providing notary services still requires physical presence for the purpose of execution. This means that notaries public cannot affix their stamp or signatures electronically. The Notaries Public Act, CAP 17 and related regulations do not currently provide for the electronic affixation of notary seals or signatures.

Therefore, in order to fulfil notarial requirements, notaries public must physically affix their official notary seal and manually sign the documents in the presence of the concerned parties.

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Luxembourg



Luxembourg

Law Firm: AKD Luxembourg S.à r.l.

Author(s): Yann Hilpert & Thomas Biermeyer

- 1) Is there specific legislation in Luxembourg ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

A bill of law on the electronic signature of administrative documents and amending the law of 25 July 2015 on electronic archiving has been lodged with the Luxembourg parliament on 27 October 2022 and is still pending; therefore, there is no specific legislation in force ruling the using of documents executed with the use of digital platforms or any electronic signatures by the Luxembourg Directorate of Civil Aviation.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

N/A.

- 3) Does the Aviation Authority in Luxembourg use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The Luxembourg Directorate of Civil Aviation does not use an electronic register for Aircraft Documents or Aircraft Lease Documents.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Luxembourg?**

No, this is not possible for the time being.

- 5) Do the courts of Luxembourg consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?**

From our understanding, this question is subject to the law applicable to documents executed by the use of digital signatures. Luxembourg applies Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 199/93/EC and the law of 14 August 2000 on electronic commerce (which transposed, among other, Directive 1999/93 of 13 December 1999 on a Community framework for electronic signatures) as amended by the law of 17 July 2020. The law of 14 August 2000 as amended refers expressly to articles 1322,

1322-1 and 1322-2 of the Luxembourg civil code, which allow the use of digital signatures; in particular, the digital/electronic signature is recognised under Luxembourg law as having the same force as a handwritten signature.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Luxembourg?**

There is no electronic system to upload on an electronic platform lawsuits, pleadings and procedural documents for the Luxembourg Courts. Written submissions and evidence annexed can be sent via email in accordance with article 169 of the Luxembourg new civil procedural code. Before the administrative courts, the practice of electronic filing was not yet the subject of law but of a test phase, while a circular specifies that the only documents with legal effect are those physically filed with the clerk of the administrative court. However, this test phase does not yet allow any upload but only to communicate on a voluntary basis to the administrative courts' writ of submissions with exhibits via email.

- 7) Do the courts of Luxembourg accept procedural documents executed digitally? b. Is there any specific certification required? c. Does Luxembourg make any distinction between official digital signatures and private digital signatures?**

a. Procedural documents such as written observations, pleading notes, etc., require a wet-ink signature from a lawyer. Writ of summons requires no signature from a lawyer at all.

b. NA (see above answer)

c. NA (see above answer)

- 8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

Based on articles 1322-1 and 1322-2 of the Luxembourg civil code, the signature required to perfect a private document must identify the person who affixes it and that this person indicates his agreement with the content of the document. It may be handwritten or electronic. An electronic private document is deemed to be an original when it presents reliable guarantees as to the maintenance of its integrity from the time when it was first created in its final form.

Based on the above provisions, it seems that the only agreement by the person who signs is in reference to the content of the document, but the consent of the party to digital signature is "implied" by the presence of the digital signature. As both methods are acceptable (handwritten or electronic), it does not seem that one method should prevail or could be imposed on

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the parties. The parties have to choose the method of signature and follow this method.

The present answer only focuses on formal requirements in relation to digital signatures and not on contractual documents in general, and we do not treat the topic of the different types of digital signatures in this section (i.e., simple, advanced and qualified digital signatures).

9) Can foreign entities not located in Luxembourg execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Luxembourg? Are there any other formalities required?

As explained under question 1 above, there is no specific legislation in force in Luxembourg regulating such a process.

10) Does the Aviation Industry in Luxembourg usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

We are not aware of the use of this technology by Luxembourg operators as electronic filing of Aviation Documents with the Luxembourg Directorate of Civil Aviation is not implemented yet.

11) Are there any Notary or Apostille requirements in Luxembourg? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

In Luxembourg, the Passport, Visas and Legalisation Office within the Ministry of Foreign and European Affairs has the mission to manage the entire organisation of the apostille service.

There are currently two possibilities for file transmission:

First possibility: going directly to the apostille desk: the request for an apostille will be made in the traditional form;

Second possibility: initiating the procedure via the online platform MyGuichet.lu.

In both cases, the apostille will be issued in the format of a sticker which is affixed to the public document.

a. Has Luxembourg implemented the e-Apostille program?

An e-apostille program has been in development since 2019, but we have no information about the timing of its entry into force.

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Malta



Malta

Law Firm: *Ganado Advocates*

Author(s): *Nikolai Lubrano and Marcus Rizzo Naudi*

- 1. Is there specific legislation in Malta ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

The Aircraft Registration Act (Chapter 503 of the Laws of Malta) (the "ARA") takes note of any formal requirements regarding aircraft registration; however, the ARA does not delve into the using of digital platforms or any electronic signature. Currently, there exists no strict procedure for the acceptance or otherwise of electronic signatures in terms of the Aircraft Registry; however, the Maltese Aircraft Register has introduced an online document management infrastructure (Centrik) that allows operators, lessors and financiers to submit any scanned copies of aircraft related documents on this platform. Through this platform, registry officials and inspectors will be able to provide their comments and/or verify the contents of any of the documents uploaded thereto.

With regards to security documents (such as mortgages, deregistration, power of attorneys and irrevocable deregistration and export request authorisations), the registry would also require original wet-ink versions of such documents.

- 2. If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

The execution of all documents (other than the IDERA, Deregistration power of attorney and the Maltese law mortgage) in electronic form is accepted in Malta. The eIDAS regulations (Regulation (EU) No 910/2014), which is an EU regulation on electronic identification and trust services whereby a legal framework for electronic signatures has been established, is automatically applicable in Malta and need not be transposed into Maltese law. To our knowledge, no specific cryptographic platforms have been developed by any local institute of technology for the aviation industry.

- 3. Does the Aviation Authority in Malta use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The Aircraft Registration Act (Chap 503 of the Laws of Malta) dictates in Article 4 that there shall be a National Aircraft Register which shall be maintained by the Director General responsible for Civil Aviation in Malta in physical or electronic form. All aircraft-related documents are uploaded electronically on Centrik, including any aircraft Lease Documents. With regards to security documents (such as mortgages, deregistration power of attorneys and irrevocable deregistration and export request authorisations), the registry would also require original wet-ink versions of such documents.

- 4. If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Malta?**

- i. Lease Agreements, Novation Agreements and Lease Assignments

Lease and operating agreements are to always be present for aircraft registration. The agreement must be in English, must have a date and duration and must be a certified true copy. The signatures on the agreement must also be authenticated according to a list of signatories. Scans of the lease agreement may be uploaded for registration through the Centrik platform - this would also apply to novation and amendment agreements or lease assignments.

- ii. Foreign Law Governed Security Agreements

Foreign law governed security Agreements are recognized in Malta to validly create security interest over an aircraft registered in the national registry of Malta on the condition that such interests are registered in accordance with the ARA. Any foreign security interests will be enforceable in Malta and shall have the status and all rights and powers specified in the ARA. Despite this, a foreign law governed security agreement is not registerable here in the Aircraft Malta Register and thus would not be uploaded to Centrik.

- iii. IDERAs

The Civil Aviation Directorate requests that a wet-ink original of the undated IDERA is to be submitted in the transcribed format, in duplicate and on the letterhead of the operator/registrant. A scanned version of the undated and signed IDERA would still need to be uploaded to Centrik for proper documentation purposes.

- iv. Deregistration Power of Attorney (DPOA)

The Civil Aviation Directorate requests that a wet-ink original of the undated DPOA is to be submitted in duplicate and on the letterhead of the operator/registrant. A scanned version of the undated and signed DPOA would still need to be uploaded to Centrik for proper documentation purposes.

- v. Maltese law Mortgage

The statutory mortgage form will need to be submitted at the registry in original duly signed and left undated. A scanned version of the undated and signed Maltese law mortgage would still need to be uploaded to Centrik for proper documentation purposes.

- 5. Are there any documents that are not required for registration with the Aviation Authority in Malta but can be valid and enforceable by the use of some type of digital certification?**

The eIDAS Regulation, being an EU Regulation, is directly applicable to Maltese law without the need for local transposition. The general rule set out in the eIDAS

Malta
Continued...

Regulation applies in Malta, namely that an e-signature cannot be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures.

Several notices issued by the Aviation Authority include non-exhaustive lists of this list are not exhaustive, and one can see a high degree of flexibility with regard to documents that can be provided, especially if they relate to any other interests on the aircraft and any limitations with regard to the operator's right to the aircraft.

6. Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Malta?

In order to file proceedings with the Courts of Malta, such must be made in original. This said, and as explained earlier, an e-signature cannot be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or that it does not meet the requirements for qualified electronic signatures.

However, if (i) the agreement is governed by a foreign law (including in terms of formal validity) and (ii) the choice or application of that foreign law is recognized in Malta (for example, by way of the Rome I Regulation), then our courts would be guided by what the applicable position is under that same foreign law.

Having said that, qualified electronic signatures are generally regarded as carrying more (immediate) evidential weight than advanced electronic and standard electronic signatures due in large part to the onerous requirements that they must fulfill for validation (e.g., a supporting qualified certificate).

In fact, per article 25(2), eIDAS Regulation, qualified electronic signatures are expressly stipulated to have the "equivalent legal effect of a handwritten signature" and thus can be said to enjoy a *juris tantum* presumption of legal validity and authenticity as to the identity of the indicated signatory. This legal presumption may prove to be particularly relevant and useful where the electronic signature, or identity of the signatory, is challenged or could be subject to dispute.

7. Do the courts of Malta accept procedural documents executed digitally? Is there any specific certification required? Does Malta make any distinction between official digital signatures and private digital signatures?

Further to our reply to question 6, this very much depends on the type of documents being submitted, the forum where they are being submitted and the purpose of their submission. This said, the general rule is that procedural documents are to be filed in original wet ink by the authorized person and/or legal representative in Malta.

Furthermore, the representation of a client and defence of his interests is excluded from the areas or fields to which our provisions on e-signatures apply. These are exhaustively listed in the Fifth Schedule of the E-Commerce Act, Chapter 426 of the Laws of Malta, and include, amongst others, the following:

- a) the representation of a client and defence of his interests before the courts,
- b) the law governing the creation, execution, amendment, variation or revocation of:
 - (i) a will or any other testamentary instrument.
 - (ii) a trust; or
 - (iii) a power of attorney.
- c) Any law governing the making of an affidavit or a solemn declaration or requiring or permitting the use of one for any purpose.
- d) the rules, practices or procedures of a court or tribunal however so described.
- e) Any law relating to the giving of evidence in criminal proceedings.
- f) Any contracts governed by family law.

8. Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

To our knowledge and understanding, there currently exists no formal requirements for the consent of digital signatures.

9. Can foreign entities not located in Malta execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Malta? Are there any other formalities required?

Foreign entities not located in the Maltese jurisdiction are authorized to execute Lease Agreements with the Aviation Authority so long as the law governing the lease agreement permits it to do so.

Finance documents other than a Maltese mortgage, IDERA and DPOA are not registerable here in Malta and, therefore, will not be requested by TM-CAD. With regard to the aforementioned documents, wet-ink signatures will be required, and digital signatures will not be accepted.

10. Does the Aviation Industry in Malta usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

To our knowledge, the Maltese Aviation industry does not make use of blockchain technology; however, as discussed in previous questions, Transport Malta CAD does make use of digital tools to expedite and facilitate the aircraft registration process.

Despite the above, blockchain is an emerging industry in Malta, and parliament has legislated towards a regulatory framework with The Malta Digital Innovation Authority Bill, The Technology Arrangements and Services Bill and the Virtual Financial Assets Bill. Having said so, blockchain has

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yet to make an appearance with regard to the control of digital aircraft documents.

11. Are there any Notary or Apostille requirements in Malta? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

The Civil Aviation Directorate requests that documents signed (electronically or in wet-in) in the EU are notarized, while those executed outside of the EU are notarized and apostilled. However, the Civil Aviation Directorate may waive these requirements at their own discretion on a case-by-case basis. The documents that would need to be notarised and/or apostilled will also include, inter alia, a power of attorney issued by a foreign lessor and/or a foreign registrant of an aircraft, duly appointing identified signatories to execute and submit any security documents (IDERA, mortgage or a deregistration power of attorney) to be registered over an aircraft registered in Malta and any foreign law governed lease agreement if this is executed outside Europe.

With regards to any document that indicates it was signed in Malta and/or by a Maltese-established entity will be accepted by the Civil Aviation Directorate without additional formalities.

It would persist that these requirements, as well as specific requirements catered for in Information and Advisory Notices, are to be carried on to the publishing of electronic documents on the Centrik Application.

a. Has Malta implemented the e-Apostille program?

Malta has not yet implemented the e-Apostille program.

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Mexico

Santamarina
+ Steta

Mexico

Law Firm: *Santamarina y Steta, S.C.*

Author(s): *Juan Carlos Machorro Guerrero, Andrés Remis Cristóbal and César Carrillo Somerville*

1) Is there specific legislation in Mexico ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

While Mexico acknowledges the validity of electronic signatures through the Law of Advanced Electronic Signature (Ley de Firma Electrónica Avanzada), the Mexican Federal Civil Aviation Agency (Agencia Federal de Aviación Civil - "AFAC") has not yet established specific regulations governing the use of digital platforms or electronic signatures for documents within the aviation industry.

In principle, the AFAC does not accept electronically executed documents as of this day. Furthermore, Mexico has ratified the Cape Town Convention on International Interests in Mobile Equipment (the "Convention") and the related Aircraft Protocol (the "Protocol"). However, Mexico's declarations have imposed limitations on the scope of the Convention, making the enforcement of remedies outlined in the Convention potentially impractical or inapplicable. Specifically, remedies under Article XI of the Protocol have been restricted, and no remedies can be exercised without court approval. Due to these limitations, IDERAs are not enforceable in Mexico at this time.

For further information on registrations with the Mexican Aeronautics Registry (Registro Aeronáutico Mexicano - "RAM"), please refer to L2B's publication on Aircraft Title and Registration - Mexico.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

N/A.

3) Does the Aviation Authority in Mexico use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No. The RAM does not currently utilize any electronic platforms for aircraft documents or aircraft lease documents. All registrations and searches must be conducted physically with hard originals presented before the AFAC.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Mexico?

No. It is not possible to upload electronic files for registration. All registrations must be done physically with hard originals

submitted to the RAM. However, there are some exceptions to this rule: provisional registration marks and preliminary registration requests for documents can be submitted electronically to the RAM.

5) Do the courts of Mexico consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?

Yes. Courts in Mexico do consider documents executed using digital signatures or certifications as valid and enforceable, even if they are not registered or registrable with the AFAC. However, for electronic signatures to be recognized as valid, they must meet specific requirements outlined in the Law of Advanced Electronic Signature, the National Code of Civil Proceedings and the Code of Commerce.

6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Mexico?

Not all courts in Mexico allow electronic filings for lawsuits, pleadings, and procedural documents. The acceptance of electronic filings depends on the specific matters being handled by each court (e.g., labor, civil, etc.), as well as whether the courts are at the federal or local level. It is essential to consider local-specific rules and guidelines regarding electronic filings.

Mexican federal courts generally allow electronic filings, provided certain requirements are met in accordance with the Law of Advanced Electronic Signature, the National Code of Civil Proceedings and the Code of Commerce.

7) Do the courts of Mexico accept procedural documents executed digitally? Is there any specific certification required? Does Mexico make any distinction between official digital signatures and private digital signatures?

Yes. The courts of Mexico do accept procedural documents executed digitally. However, there is a specific certification requirement for these electronic signatures. To be considered valid within courts and the judicial system, electronic signatures must adhere to the regulations outlined in the Law of Advanced Electronic Signature.

It is essential to note that Mexico distinguishes between official digital signatures, which are governed by the Law of Advanced Electronic Signature, and private digital signatures used in other contexts, such as those provided by digital platforms. The official digital signatures must comply with the legal requirements set forth by the Law of Advanced Electronic Signature to be accepted within the court system.

Mexico
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8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Yes. For documents executed by digital signatures to be considered valid in Mexico, they must adhere to the formal requirements outlined in the Law of Advanced Electronic Signature.

9) Can foreign entities not located in Mexico execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Mexico? Are there any other formalities required?

Lease agreements or finance documents can be executed with digital signatures, meeting the requirements mentioned earlier. However, for registration of any document with the RAM, notarization is mandatory in Mexico. Notarization in Mexico involves the execution of documents with wet ink signatures on original copies.

If the documents are issued and executed abroad, they must undergo notarization and further apostilling or legalization, as applicable. Additionally, if the documents are in any language other than Spanish, a Spanish-certified translation must be provided by a Mexican court-approved expert translator.

For further information on registrations with the RAM, please refer to L2B's publication on Aircraft Title and Registration - Mexico.

10) Does the Aviation Industry in Mexico usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No. The AFAC primarily relies on printed paper documents.

11) Are there any Notary or Apostille requirements in Mexico? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

All documents to be recorded with the RAM must be duly notarized. If such documents were (i) issued abroad, they must be notarized and further apostilled or legalized (as applicable) and/or (ii) entered in any language other than Spanish; a Spanish-certified translation thereof must be issued by a Mexican court-approved expert translator.

Notarization in Mexico involves the execution of documents with wet ink signatures on original copies.

For further information on registrations with the RAM, please refer to L2B's publication on Aircraft Title and Registration - Mexico.

12) Has Mexico implemented the e-Apostille program?

No. As of this date, Mexico has not implemented the e-Apostille program.

DISCLAIMER: The above information should not be relied upon by the reader for legal advice as it is intended merely to serve as a preliminary guide to the laws and regulations governing the registration of aviation and aircraft in this country. The information intends to provide summary-level information about certain tax issues affecting general aviation and aircraft finance. Since these materials are general in nature, readers are encouraged to obtain legal and tax advice from their own professional legal and tax counsel based on specific facts and circumstances regarding their acquisition and/or use of aviation and aircraft.

Montenegro

karanovic/partners

Montenegro

Law Firm: *Karanović & Partners*

Author(s): *Ana Lučić, Ana Pavlović*

1) Is there specific legislation in Montenegro ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

There is no specific legislation in Montenegro regulating specifically the use of aviation documents executed with the use of digital platforms or any electronic signatures. Electronic signing in Montenegro is principally governed by the Law on Electronic Identification and Electronic Signature ("E-Signature Law"), the Law on Electronic Documents ("E- Document Law") that regulates the use of electronic documents in legal transactions, its use before competent authorities and courts. These Laws also apply to all public bodies, including the Civil Aviation Authority ("CAA").

On the other hand, there is no Law in Montenegro that specifically regulates the use of digital platforms.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The E-signature Law defines three types of e-signatures: (i) simple, (ii) advanced, and (iii) qualified electronic signature; however, only a qualified electronic signature ensures full equivalence in terms of validity and enforceability with that of a handwritten/wet ink signature. Depending on the type of signature and purpose for which it is used, different requirements are needed. In terms of e-signatures, specific requirements prescribed by law are only needed for qualified ones, as it provides the highest level of reliability and certainty.

Qualified electronic signatures issued by the authorized bodies in the countries with which Montenegro has entered into the relevant bilateral agreements should have the same legal effect as the qualified electronic signatures issued by the Montenegrin Authorized Bodies. However, at the moment, the bilateral agreements are only concluded with Serbia and Northern Macedonia.

3) Does the Aviation Authority in Montenegro use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The registers that are available in electronic form on the website of the CAA are:

- Register of civil aircraft;
- List of operators of unmanned aircraft systems.

The Register of civil aircraft contains data about the aircraft,

aircraft operator, aircraft owner and encumbrances on the aircraft. However, the documentation and specifics about these data are not accessible via the website.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Montenegro?

At the moment, CAA does not allow the submission of a registration application and supporting documentation electronically, only through the standard procedure - via the Post office or directly to the CAA.

5) Are there any documents that are not required for registration with the Aviation Authority in Montenegro but can be valid and enforceable by the use of some type of digital certification?

As we previously pointed out, there are no special regulations regarding the use of electronic signatures, which are only applied before the CAA. However, when speaking about the general use of documents signed with an electronic signature, please note the following:

In the case when it is specifically required by the local laws that a certain document/agreement should be hand-signed, as an equivalent, it is mandatory to use only qualified e-signature (e.g., for license agreements, filings with state bodies or agencies). In all other situations, when the local laws do not prescribe any form or do not require a hand-signed signature, there are no formal obstacles to using the other two types of e-signatures.

The use of e-signature is not possible for contracts that must be concluded in front of the notary public.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Montenegro?

Civil procedure law foresees the possibility of submission of lawsuits, submissions, and process documentation electronically.

However, this possibility is still not applicable in practice, and the public bodies (courts, administrative bodies etc.) mostly allow submission only via Post or by direct delivery as part of the familiar and practiced procedure.

Montenegro
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7) Do the courts of Montenegro accept procedural documents executed digitally? Is there any specific certification required? Does Montenegro make any distinction between official digital signatures and private digital signatures?

Courts in Montenegro are legally obliged to accept procedural documents signed with an electronic signature. However, the application of documents signed with an electronic signature in Montenegro is not commonly used in practice.

The Montenegrin E-Signature Law does not distinguish between official digital signatures and private digital signatures.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No, there is no legal obligation to expressly state in the contract that the contract will be signed with an electronic signature.

9) Can foreign entities not located in Montenegro execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Montenegro? Are there any other formalities required?

In general, there is no direct ban on foreign entities that are not located in Montenegro to conclude lease agreements or sign any financial documents with digital signatures. Of course, in each specific case, care must be taken as to whether it is a contract or a document that is required to be drawn up in a certain form, such as the form of a notary record, or whether it is a document that must be signed by hand.

However, please note that electronic registration with the CAA is still not possible. The CAA also does not accept electronically signed documents.

10) Does the Aviation Industry in Montenegro usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

The aviation industry (neither any other) in Montenegro does not use blockchain technology yet.

11) Are there any Notary or Apostille requirements in Montenegro? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Montenegrin jurisdiction implemented the e-Apostille program?

In case of a document for which the law of Montenegro is applicable and for which the national legislation requires one of the special forms, the contract/document must be drawn up in the same form, which may exclude the use of an electronic signature.

The Law on Legalization of Public Documents in International Traffic foresees the obligation to legalize public documents issued in another country that are intended for use in front of Montenegrin authorities.

Also, Montenegro has been a signatory to the Hague Convention since 1961, which means that a document supplied with an apostille is exempt from any further certification and is eligible for use without the obligation of legalization when signing/authenticating foreign public documents.

Montenegro has not implemented the e-apostille program. Therefore, the documents intended for Montenegro must be provided with an apostille in paper form.

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Nigeria



Nigeria

Law Firm: *Aluko & Oyebo*

Author(s): *Ayodeji Oyetunde, Gregory Yinka-Gregg, Ebube Akpamgbo*

- 1) Is there specific legislation in Nigeria ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

There is legislation in Nigeria that provides for the use of electronic signatures and for the execution of documents, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation, and IDERAs. However, the relevant legislation does not specifically provide for the use of digital platforms; as a result of this, it is unclear whether the use of digital platforms is permissible in Nigeria.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

Generally, the Evidence Act provides that an electronic signature satisfies the rule of law if it complies with a procedure in existence by which it is necessary for a person to proceed with a given transaction and complies with a security procedure, if any, for the purpose of verifying that the electronic signature was executed by such a person.

However, there is no specific requirement of completion with a cryptographic platform developed by any local institute of technology under Nigerian law. The Nigeria Civil Aviation Regulation provides that an electronic signature, or any other form of signature, should satisfy the requirement of being a unique identification used as a means of authenticating a record entry or record by an individual.

In addition, Section 84 () of the Evidence Act provides that for a statement in a computer-generated document to be admissible in court, the following conditions are required to be satisfied:

- (a) that the document containing the statement was produced by the computer during a period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period, whether for profit or not by anybody, whether corporate or not, or by any individual;
- (b) that over that period, there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived;
- (c) that throughout the material part of that period, the computer was operating properly or, if not, that in any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of its contents; and
- (d) that the information contained in the statement reproduces

or is derived from information supplied to the computer in the ordinary course of those activities.

- 3) Does the Aviation Authority in Nigeria use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The Nigeria Civil Aviation Authority (the "Aviation Authority") maintains a register for aircraft documents. The Civil Aviation Act mandates the Aviation Authority to establish and maintain a national registry for the registration of civil aircraft and any interest or title thereof in Nigeria.

On the other hand, the Aviation Authority does not maintain an electronic register. It, however, keeps a computerized database through which it reflects relevant information in respect of aircraft.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Nigeria?**

As indicated above, the Aviation Authority maintains a national registry which is in physical form. Copies of physical documents indicating any interest in an aircraft are registered by the Aviation Authority in the national registry. Details of such interest are further included directly by the Aviation Authority in a computerized database.

- 5) Do the courts of Nigeria consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?**

As indicated in our response to Question 1 above, the courts will consider valid and enforceable documents executed by the use of an electronic signature. However, the relevant legislation does not specifically provide for the use of digital platforms. It is, therefore, uncertain whether the courts would enforce documents executed through such means.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Nigeria?**

The relevant legislation in Nigeria does not permit for lawsuits, pleadings and procedural documents to be electronically uploaded to the national register.

Nigeria

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7) Do the courts of Nigeria accept procedural documents executed digitally? Is there any specific certification required? Does Nigeria make any distinction between official digital signatures and private digital signatures?

The courts will consider valid and enforceable documents which have been executed through the use of an electronic signature. In determining the admissibility of any procedural document executed electronically, the conditions in Section 84 (2) of the Evidence Act are required to be satisfied.

Nigeria does not specifically make a distinction between official electronic signatures and private electronic signatures.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Pursuant to the Evidence Act, the consent of a party to an electronic signature is not required to be expressly referred to in an agreement to make such an agreement valid. It suffices that the relevant party has appended its electronic signature to the document with the intention to be bound, and there were no elements of duress, deceit, or illegality, at the time of the execution.

However, the consent of an illiterate and blind person is required to be expressly stated in any agreement as having been obtained at the time of its execution. By virtue of section 119 of the Evidence Act, a jurat is required, stating in the document that the contents of the document have been read over to such a person and translated into a language that he/she understands, and such person appeared to have understood the same.

9) Can foreign entities not located in Nigeria execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Nigeria? Are there any other formalities required?

Foreign entities not located in Nigeria can execute lease agreements and finance documents with electronic signatures to be filed for registration with the Aviation Authority. Where such a document is sought to be admissible, the conditions stated in Section 84 (2) of the Evidence Act are required to be satisfied.

10) Does the Aviation Industry in Nigeria usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No, the Aviation Authority in Nigeria does not use digital tools, including blockchain technology, in respect of Aircraft Documents.

11) Are there any Notary or Apostille requirements in Nigeria? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents? Has Nigeria implemented the e-Apostille program?

There is no additional requirement for a document executed through the use of an electronic signature to be notarized or apostilled.

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North Macedonia **karanovic/partners**

North Macedonia

Law Firm: Attorneys at Law in cooperation with Karanovic & Partners

Author(s): Božidar Milošević and Vlatko Tokarev

1) Is there specific legislation in North Macedonia ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

The general rules relating to the use of digital platforms and electronic signatures are provided in the local Law on Electronic Documents, Electronic Identification and Confidential Services ("Electronic Documents Law"), which is aligned with Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market.

Other than the Electronic Documents Law, no special rules regarding the execution of documents with the use of digital platforms or any electronic signatures by the Civil Aviation Agency of the Republic of North Macedonia ("Aviation Authority") apply. However, even though the general rules from the Electronic Documents Law should apply in procedures before the Aviation Authority, in practice, that is not the case due to different reasons.

For example, despite the fact that under the Electronic Documents Law, electronic form (including signature) is equivalent to written form, the authorities still have a conservative approach to what is considered "written form" under the Law on Obligations and Real Rights Matters in the Air Traffic. This law regulates matters regarding establishing leases or mortgages and requires written form for these purposes. At the same time, it provides only one explicit case when an electronic form is equivalent to a written form (i.e., in the case of agreements for the transport of passengers) and when a written form is not required. Hence, the agreements for leases or mortgages of aircraft should be in written (hardcopy) form. In addition, the security agreements/agreements for establishing mortgages are usually certified by a notary public in order to include so-called "enforcement clauses" and enable enforcement of the mortgage without a court decision. For this purpose, a wet ink signature is required during the procedure in front of the notary.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

N/A

Under the general rules of the Electronic Documents Law, a qualified electronic signature is the only equivalent to a handwritten signature. All qualified electronic signatures must be a) uniquely linked to the signatory, b) capable of identifying the signatory, c) created using electronic signature creation data that the signatory can (with a high level of confidence) use under his sole discretion, d) linked to the data signed therewith in such a way that any subsequent change in the data

is detectable and e) created by a qualified electronic signature creation device, and which is based on a qualified certificate for electronic signatures. Additionally, the Electronic Documents Law prescribes in detail all technical requirements for qualified certificates and qualified trust service providers.

In accordance with the previously mentioned, there are no legal obstacles to acceptance of an electronic signature, subject to the following important qualifications:

- the use of a qualified electronic signature would be required;
- there might be technical obstacles, as some public institutions might not have the technical means to accept an electronic signature;
- there is still a rather conservative market approach, and the use of electronic signatures is not widely accepted in practice.

3) Does the Aviation Authority in North Macedonia use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

Yes, the Aviation Authority keeps a register for Aircraft and Aircraft Documents or Aircraft Lease Documents, including mortgages, in hardcopy and electronic form. The Aviation Authority keeps the electronic register in line with the ICAO standards.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in North Macedonia?

No, the Aviation Authority only accepts hard copies of originals or notarized copies of the documents relating to the aircraft registered in the aircraft register.

5) Are there any documents that are not required for registration with the Aviation Authority in North Macedonia but can be valid and enforceable by the use of some type of digital certification?

As explained in answer to question 2, documents signed via a qualified electronic signature are legally valid and enforceable in North Macedonia, but such digitally signed documents are still rarely accepted in practice.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in North Macedonia?

The Law on Civil Procedure provides that lawsuits, countersuits, legal remedies and other statements, pleadings, proposals and announcements may be submitted either in

North Macedonia

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writing or via electronic means to the admissions office of the competent court. However, as far as we are aware, this option is not used in practice, and the willingness of courts to accept electronic submissions of procedural documents is not tested and confirmed.

7) Do the courts of North Macedonia accept procedural documents executed digitally? Is there any specific certification required? Does North Macedonia make any distinction between official digital signatures and private digital signatures?

There is no legal obstacle for courts in North Macedonia to accept procedural documents executed digitally, considering that the Law on Civil Procedure explicitly provides that a submission may be signed electronically. In practice, submitted procedural documents always contain a handwritten signature, and we are not aware of any submitted electronic documents.

To be legally valid and enforceable, digitally signed documents must be signed via an electronic identification scheme registered by the Ministry.

The Electronic Documents Law does not make a distinction between digital signatures created by public or private entities.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

There are no other formal requirements for the validity of documents related to the fact that they are signed digitally. The consent of the parties to digital signatures is not prescribed as a mandatory element, but it is advisable that such express reference is included considering the conservative market approach to the acceptance of electronic signatures.

In terms of the electronic document itself, the Minister for Information Society and Administration has adopted a Rulebook on the Mandatory Elements of Electronic Documents ("Rulebook"), according to which an electronic document must meet certain technical requirements and contains the following elements (regulated in more details in the Rulebook):

1. Header, at the top of the document, containing the logo of the issuer;
2. Body, as the central part of the document, consisting of the text prescribing the essential meaning and substance of the document;
3. Footer, at the bottom of the document.

9) Can foreign entities not located in North Macedonia execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in North Macedonia? Are there any other formalities required?

Although there are no legal obstacles to the acceptance of digital signatures, the Aviation Authority in North Macedonia is, in practice, reluctant to accept digitally signed documents. Hence, it is advised that all documents filed for registration with the Aviation Authority in North Macedonia contain a handwritten signature.

10) Does the Aviation Industry in North Macedonia usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Printed paper aviation documents are generally used. The Aviation Authority does not use blockchain technology.

11) Are there any Notary or Apostille requirements in North Macedonia? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

If a certain document needs to be notarized abroad, it also has to include an apostille or other type of legalization, depending on whether the country of notarization is a signatory party to the 1961 Convention on Apostille. This also applies to electronically executed documents that are notarized abroad.

Most of the aviation documents that should be provided to the Aviation Authority do not need to be notarized. However, some of them are notarized in practice for greater legal certainty and easier enforcement (as explained in the answer to question no. 1 regarding the security documents). There is a possibility for carrying out the notarization electronically in North Macedonia. However, as far as we are aware, this has not been tested in practice.

a. Has North Macedonia implemented the e-Apostille program?

No, North Macedonia has not implemented the e-Apostille program yet.

DISCLAIMER: The above information should not be relied upon by the reader for legal advice as it is intended merely to serve as a preliminary guide to the laws and regulations governing the registration of aviation and aircraft in this country. The information intends to provide summary-level information about certain tax issues affecting general aviation and aircraft finance. Since these materials are general in nature, readers are encouraged to obtain legal and tax advice from their own professional legal and tax counsel based on specific facts and circumstances regarding their acquisition and/or use of aviation and aircraft.

Norway



Norway

Law Firm: *Advokatfirmaet Ræder AS*

Author(s): *Kyrre W. Kielland and Robin Josdal*

- 1) **Is there specific legislation in Norway ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

Norway has implemented the European Regulation on electronic identification and trust services for electronic transactions in the internal market (eIDAS), and in the private sector, electronic signatures are widely accepted. In the public sector, however, the acceptance of electronic signatures is limited.

According to the Public Administration Act section 15 a), it may be prescribed regulations relating to electronic communication between the public administration and the general public and to electronic case processing and communication in the public administration, including rules concerning the forms of electronic communication that may be used, signing, authenticating, securing integrity and confidentiality, requirements that apply to the products, services and standards that may be used etc.

However, no specific regulations have been made regarding the using of documents with the use of digital platforms or electronic signatures by the Aviation Authority.

- 2) **If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

N/A

- 3) **Does the Aviation Authority in Norway use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

The Norwegian Civil Aircraft Register ("Luftfartøyregisteret") is kept electronically, cf. the Civil Aviation Act section 3-1 and Registration of Aviation (administrative act) section 4.

Any document that "establishes, changes, transfers, encumbers, recognizes or cancels a right" can be annotated in The Norwegian Civil Aircraft Register, cf. Civil Aviation Act section 3-22. A general overview of The Norwegian Civil Aircraft Register, providing information regarding the ownership of the aircraft, is available on The Norwegian Civil Aviation Authority's ("Luftfartstilsynet") website.

However, the Register is not open for use and registration by the users, but the electronic Register is merely an overview based on the written documents that are submitted to the Register.

- 4) **If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Norway?**

It is not possible for users to upload files electronically themselves. Any document must be sent to the Civil Aviation Authority manually in written format for registration. The Civil Aviation Authority will then enter the document in the electronic Register.

- 5) **Are there any documents that are not required for registration with the Aviation Authority in Norway but can be valid and enforceable by the use of some type of digital certification?**

Documents that are not subject to filing will be held valid and enforceable inter partes when duly executed digitally.

- 6) **Is it possible to upload lawsuits, pleadings and procedural documents electronically in Norway?**

Yes. The Norwegian courts use an electronic communication portal called "Aktørportalen", which lawyers are obliged to utilize, cf. Regulation on electronic communication with the courts section 3a.

This does, however, not apply to communication with the Norwegian Conciliation Board, which is, in fact, the appropriate court of first instance for claims (i) below NOK 200,000 or (ii) exceeding NOK 200,000 if a defendant has not been represented by legal counsel, cf. the Norwegian Dispute Act section 6-2. Submitting lawsuits, pleadings and procedural documents must therefore be done by post to the Conciliation Board.

- 7) **Do the courts of Norway accept procedural documents executed digitally? Is there any specific certification required? Does Norway make any distinction between official digital signatures and private digital signatures?**

Authorized lawyers and associates are obliged to register as a user and utilize the electronic communication system ("Aktørportalen") to upload procedural documents, cf. Regulation on electronic communication with the courts section 3a. This entails that lawsuits, pleadings and procedural documents are uploaded directly to the system, which are all accepted as executed once submitted. Non-professionals litigating their own case are generally not permitted to register as a user in this system.

Otherwise, the courts also accept procedural documents by e-mail that are signed electronically.

Norway
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There are no official digital signatures in Norway. The most used means of electronic identification and signatures in Norway in respect of public services is BankID, which is a private digital signature satisfying the requirements of the eIDAS regulations.

8) Is there any formal requirement for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Electronic signature through the electronic communication system is equal to a regular signature, cf. Regulation on electronic communication with the courts section 11. The digital signature must, however, satisfy the requirements of the eIDAS regulation to achieve this legal effect.

That being said, under Norwegian law, oral agreements are as binding as written agreements as long as there is sufficient evidence of an intent to enter into the agreement. Therefore, any form of electronic signature not satisfying the requirements (e.g., DocuSign) may, under the circumstances, be sufficient to establish a validly executed agreement enforceable between the parties.

9) Can foreign entities not located in Norway execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Norway? Are there any other formalities required?

No. The Norwegian Civil Aircraft Register does not accept digital signatures, either from Norwegian entities or foreign entities.

10) Does the Aviation Industry in Norway usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Not to date. We are, however, aware that certain public registries are experimenting with registrations based on blockchain technology.

11) Are there any Notary or Apostille requirements in Norway? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Norway implemented the e-Apostille program?

One requirement for registration is that if the owner is an EEA company, enterprise or association, a self-declaration must be submitted confirming this. The declaration must be confirmed by a Notary Public. Outside the Nordic countries, the notary's signature must be confirmed by an apostille or legalization.

As stated above, it is not possible to submit aviation documents electronically.

Consequently, Norway has not implemented the e-Apostille program.

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Pakistan

Pakistan

Law Firm: *Kabiraji & Talibuddin*

Author(s): *Syed Ali Bin Maaz, Zayna Nazir Khan, and Izhar Hameed*

1) Is there specific legislation in Pakistan ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

There is currently no aviation-specific legislation in Pakistan governing the use of documents such as aircraft lease agreements, security agreements, aircraft mortgages, aircraft lease assignments or novation, and IDERAs executed with the use of digital platforms or electronic signatures for submission to or execution by the Pakistan Civil Aviation Authority (the "Aviation Authority").

The relevant aviation laws, including relevant forms and notifications issued by the Aviation Authority from time to time, neither provide for nor envisage the use of digital platforms or electronic signatures on the aforesaid documents. Notwithstanding the foregoing, it may be worth noting that Pakistan has enacted the Electronic Transactions Ordinance 2002 (the "Ordinance"), which governs the use, legality and procedural formalities in relation to electronic documents and electronic signatures generally. The admissibility of documents executed electronically in legal proceedings in the courts of Pakistan is, therefore, determined in accordance with the Ordinance read with the law of evidence as set out in Qanun-e-Shahadat Order 1984 (the "Order," i.e., the law of evidence in Pakistan).

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The general rule established under the Ordinance is that "no document, record, information, communication, or transaction shall be denied legal recognition, admissibility, effect, validity, proof or enforceability on the ground that it is in electronic form and has not been attested by any witness." Further, under Section 7 of the Ordinance, "the requirement under any law for the affixation of signatures shall be deemed satisfied where electronic signatures¹ or advanced electronic signatures² are applied".

On this related note, Article 73 of the Order sets out the requirements for the admissibility of primary evidence in a court of law in Pakistan. The nature of primary evidence has been amended by the Ordinance to include an electronic Document³, first generated, sent, received or stored in electronic form, to which a security procedure⁴ was applied thereto at the time it was generated, sent, received or stored. Further, pursuant to Article 78-A of the Order, if a document is alleged to have been signed or have been generated wholly or in part by any person through the use of an information system⁵ and is denied as having been signed or generated as such, the application of a

security procedure to the signature or the electronic document must be proved.

3) Does the Aviation Authority in Pakistan use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No, the Civil Aviation Authority in Pakistan does not use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation, and IDERAs).

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Pakistan?

N/A

5) Do the courts of Pakistan consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?

Non-registration of aviation documents with the CAA (whether on account of being executed digitally/electronically or otherwise) would not, in and of itself, render such documents invalid or unenforceable in any legal proceedings instituted before the courts of Pakistan. Please also see our response to Question 2 above.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Pakistan?

No, it is not currently possible to upload lawsuits, pleadings, and procedural documents electronically in Pakistan. However, it is worth noting that the legal system in Pakistan has established an online portal for courts to ascertain updates on the status of pending and disposed cases.

7) Do the courts of Pakistan accept procedural documents executed digitally? Is there any specific certification required?

The courts in Pakistan presently do not accept electronically executed documents for the procedural purpose of instituting or defending any legal proceedings such as pleadings and interim applications etc. Any person seeking to institute legal proceedings is required to physically present themselves before the relevant branch/office of the relevant court to execute the documents for the purpose of verification and authentication,

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Continued...

which may then be subsequently filed in court. Without prejudice to the foregoing, our courts do recognize documents prepared, produced, or generated through electronic devices as admissible in evidence on the basis that the Ordinance has introduced provisions that have amended the Qanun-e-Shahadat Order 1984 (i.e., the law on evidence in Pakistan). Please also see our response to question number 2 above.

Is there any specific certification required?

As our response to the previous question is negative insofar as the filing of documents is concerned in connection with the institution or defense of any legal proceedings, there is no specific certification requirement on the basis that such documents are not accepted by the courts in Pakistan. In relation to any printout of an electronic document filed by a litigant as part of its claim or defense during the course of the legal proceedings before the courts in Pakistan, please see our response to question number 2 above.

Does Pakistan make any distinction between official digital signatures and private digital signatures?

Presently, there is no distinction between official digital signatures and private digital signatures set out in the Ordinance.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No, there are no formal requirements for the validity of documents executed by electronic signatures. Pursuant to Section 7 of the Ordinance, the requirement under any law for affixation of signatures shall be deemed satisfied where electronic signatures or advanced electronic signatures are applied. Further, pursuant to Section 8 thereof, an Electronic Signature "may be proved in any manner, in order to verify that the electronic signature is of the person that has executed it with the intention and for the purpose of verifying its authenticity or integrity or both".

It is pertinent to note that the Ordinance has removed the requirement for attestation and notarization for a period of two years from the date of the enactment of the aforementioned Ordinance, or till the time either the Federal or Provincial Governments, as the case may be, devises and implements measures for attestation and notarization of electronic documents, whichever is later. We are unaware of any measures that have been implemented by the Federal or Provincial Governments in respect of the requirements of notarization and attestation as of the date of this analysis.

9) Can foreign entities not located in Pakistan execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Pakistan?

Yes, as a matter of law, foreign entities may execute the relevant Lease Agreements and Finance Documents with electronic signatures in view of the provisions of the Ordinance, in particular, Section 7, whereby the requirement under any law for affixation of signatures shall be deemed satisfied where electronic signatures or advanced electronic signature

are applied. However, as a matter of practice, the risk of the Aviation Authority requiring submission of the Lease Agreements executed in wet ink by the relevant parties may not be completely disregarded.

Are there any other formalities required?

Lease Agreements and Finance Documents, generally, are required to be witnessed by either two adult males or one adult male and two females in order to be admissible in evidence in the courts in Pakistan.

Under the Constitution of Pakistan 1973 (the "Constitution"), stamp duty is a provincial subject and falls within the domain of the Provincial Assembly. While the rates of stamp duty vary from province to province, the basic legislation is largely similar, if not identical. The relevant nexus for the attraction of stamp duty under Pakistan law is the place of execution of an instrument rather than the jurisdiction of incorporation of a party to an agreement.

Pursuant to section 17 of the Stamp Act 1899 (the "Stamp Act"), all instruments chargeable with duty and executed by any person in Pakistan must be stamped before or at the time of execution. Section 18 of the Stamp Act states that if an instrument chargeable with duty is executed out of Pakistan, it must be stamped within three (3) months after it has been first received in Pakistan. An instrument executed outside Pakistan is chargeable to duty in Pakistan only if it relates to any property "situated in Pakistan or to any matter or thing done or to be done in Pakistan and is received in Pakistan."

Under section 35 of the Stamp Act, unless an instrument is duly stamped, it shall not be admissible in evidence in the courts in Pakistan. However, clause (e) of the proviso to section 35 of the Stamp Act states that the provisions of section 35 of the Stamp Act shall not prevent the admission of any instrument in any court of Pakistan when such instrument has been executed by or on behalf of the Government. "Government" is not defined in the Stamp Act. However, under the General Clauses Act 1897 (the general law inter alia defining commonly used terms in legislation), "Government" includes both the Federal Government and the Provincial Government.

Not stamping a document that is required by law to be stamped could result in it being impounded under the Stamp Act. Execution of a document prior to stamping would render the document liable to a penalty, being the unpaid applicable stamp duty plus up to ten times the applicable stamp duty.

10) Does the Aviation Industry in Pakistan usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No, the Aviation industry in Pakistan does not usually utilize digital tools such as blockchain technology for the purpose of controlling aircraft documents as a substitute for printed paper aircraft documents.

11) Are there any Notary or Apostille requirements in Pakistan?

As of 9 March 2023, Pakistan has acceded to the Hague Convention (which abolishes the requirement of legalization for public documents and introduces the requirement for apostilization) and has recently introduced a bill to incorporate

Pakistan
Continued...

the Hague Convention into domestic law. The bill is currently titled the 'Apostille Act 2023' which has been passed by the National Assembly and is pending approval by the Senate of Pakistan. Therefore, once the Hague Convention is enacted as part of the domestic law, documents may be required to be notarized and apostilled in accordance with the Apostille Act 2023 and public documents, which previously were also required to be consularized would no longer be required pursuant to Article 2 of the Hague Convention.

If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

No, the requirement to notarize and apostille documents does not extend to documents executed electronically. Pursuant to the Ordinance, electronic documents are not required to be attested or notarized for a period of two years from the date of commencement of the Ordinance or till the time the appropriate authority has devised and implemented measures for attestation and notarization of electronic documents, whichever is later. We are not aware of any measures passed by the Federal or Provincial Government in connection with the notarization of electronic documents. Accordingly, electronic documents are not currently required to be attested or notarized.

Notwithstanding the aforesaid, as a matter of practice, the Aviation Authority requires the submission of notarized and consularized copies of aviation documents that are required to be submitted with it on a case-by-case basis depending on the nature of the activity for which the submission is being made with it.

Has Pakistan implemented the e-Apostille program?

While the electronic Apostille Programme (e-APP) as part of the Hague Convention has been created to support the electronic issuance and verification of Apostilles for countries that have acceded to the Hague Convention, Pakistan has not yet implemented the e-APP.

- 1 "electronic signature" means any letters, numbers, symbols, images, characters or any combination thereof in electronic form, applied to, incorporated in or associated with an electronic document, with the intention of authenticating or approving the same, in order to establish authenticity or integrity, or both;
- 2 "advanced electronic signature" means an electronic signature which is either– (i) unique to the person signing it, capable of identifying such person, created in a manner or using a means under the sole control of the person using it, and attached to the electronic document to which it relates in a manner that any subsequent change in the electronic document is detectable ; or (ii) provided by an accredited certification service provider and accredited by the Certification Council as being capable of establishing authenticity and integrity of an electronic document;
- 3 "document" has been defined in the Qanun-e-Shahadat Order 1984 to mean any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose recording that matter;
- 4 "security procedure" means a procedure which : (i) is agreed between parties; (ii) is implemented in the normal course by a business and which is reasonably secure and reliable ; or (iii) in relation to a certificate issued by a certification service provider, is specified in its certification practice statement; for establishing the authenticity or integrity, or both, of any electronic document, which may require the use of algorithms or codes, identifying words and numbers, encryption, answer back or acknowledgment procedures, software, hardware or similar security devices;
- 5 "information system" means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing information;

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Perú



Perú

Law Firm: *Diaz Palao & Siles Law Firm*

Author(s): *Patricia Siles Alvarez*

1) Is there specific legislation in [Perú] ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

No, there is no specific legislation regulating this procedure under the responsibility of the General Directorate for Civil Aviation (hereinafter DGAC), which is the Aeronautic Authority in Perú.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?

Notwithstanding the answer to the previous question, it should be pointed out that there are specific requirements for the validity of the electronic signature types which are indicated in Article 1-A of Supreme Decree No. 052-2008-PCM, "Regulations of the Law of Digital Signatures and Certificates":

"TITLE I

GENERAL PROVISIONS

ARTICLE 1-A.- The following three (03) types of electronic signature are recognized:

- a) Simple Electronic Signature. It is a data in electronic format attached to other electronic data or logically associated with them, used by a signatory to sign.
- b) Advanced Electronic Signature. A simple electronic signature that meets the following characteristics: (i) it is uniquely linked to the signatory, (ii) it allows the identification of the signatory, (iii) it has been created using signature creation data that the signatory can use under its control, and (iv) it is linked to the signed data in such a way that any subsequent modification thereof is detectable.
- c) Qualified Electronic Signature. A qualified electronic signature or digital signature is an advanced electronic signature that complies with the provisions of Chapter II of these Regulations".

Regarding the provisions of section c), Chapter II states that the qualified electronic signature must be provided by a provider entity that is duly registered /accredited at INDECOPI, and complies with all the characteristics and requirements established by law.

3) Does the Aviation Authority in [Perú] use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The General Directorate for Civil Aviation (DGAC) is not in charge of registering lease contracts, guarantee agreements and

others, since by the Resolution of the National Superintendency of Public Registries N° 360-2002-SUNARP-SN, approved the Regulation for Registration of that kind of documents at the Aircraft Public Registry. The Aircraft Public Registry is a deconcentrated body of SUNARP in charge of registering acts and/or rights related to aircrafts.

This entity uses the electronic registry to register an extract or summary of the registration record, but not all the documents filed related to an specific act, agreement or amendment.

Notwithstanding the above, the DGAC do grants access to each air operator to an assigned extranet, where specific information is notified and, certain documents approved to the air operator by the aeronautic authority are compiled. The extranet has limited access, only to the Security Chief.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in [Perú]?

As commented, it is not possible to register the documents detailed in the above question because the DGAC is not the competent entity for such registrations.

Notwithstanding, documents regarding aircraft security programs of the airlines can be uploaded at the referred extranet.

5) Are there any documents which are not required for registration with the Aviation Authority in [Perú] but can be valid and enforceable by the use of some type of digital certification?

Yes, as explained before, documents registration must be issued by SUNARP Aircraft Registry in order to be valid. That registration gives validity and makes enforceable the documents at the DGAC.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in [Perú]?

Yes, through Administrative Resolution No. 214-2008-CE-PJ, the Executive Council of Peruvian Courts established the Electronic Notification System (SINOE), which is a virtual platform for the Peruvian Courts that is use for pleadings and file procedural documentation related to the designated Electronic Court File and it is also an electronic mean for electronic notifications to parties of court proceedings.

7) Do the courts of [Perú] accept procedural documents executed digitally? Is there any specific certification required? Does [Perú] make any distinction between official digital signatures and private digital signatures?

Filing documents with electronic or digital signatures in the Courts system is admitted.



Perú
Continued...

Natural persons are not required to have any digital certificated signature; digitalized signature is valid unless it were required by a specific act in the course of a procedure. However, officials of public entities have digital signatures to sign the documents they issue in courts, according to the Supreme Decree 052-2008-PCM.

8) Are there any formal requirement for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Digital signatures, will be considered valid if it is generated within the framework of the Official Electronic Signature Infrastructure (IOFE) according to article 3 of Supreme Decree 052-2008-PCM, which approves the "Regulations of the Digital Signatures and Certificates Law".

Article 6 of the Regulation establishes the conditions that the digital signature generated within the framework of the (IOFE) must have:

"CHAPTER II

DIGITAL SIGNATURE

Article 6.- Digital signature

It is an electronic signature that, using an asymmetric cryptography technique, allows the identification of the signatory and it has been created by means, even remotely, that guarantee that the signatory maintains under its control with a high degree of confidence, so that it is linked only to the signatory and to the data to which it refers; which allows guaranteeing the integrity of the content and detecting any subsequent modification, has the same validity and legal effectiveness as the use of a handwritten signature, provided that it has been generated by a duly accredited Digital Certification Service Provider that is within the Official Electronic Signature Infrastructure, and that has none of the defects provided in Title VIII of Book IV of the Civil Code.

(...)"

The digital signature generated within the framework of the (IOFE), must be generated through a Digital Certification Service Provider duly accredited before INDECOPI.

9) Can foreign entities not located in [Perú] execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in [Perú]? Are there any other formalities required?

Yes, foreign entities may sign all types of agreements or finance documents with digital signature or electronic signature; however, for their registration at Peruvian entities, they must have an apostille or consular legalization. In that regard, the use of digital or hand signatures depends really of the requirements to apostille or for consular legalization.

10) Does the Aviation Industry in [Perú] usually use digital tools such as blockchain technology for purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

In Peru, the aeronautic authority has only implemented the technological platform for the submission of documents, for

electronic notifications and there is also access granted to an extranet assigned to each air operator which allows the authority to notify information and compile documents approved to the air operator.

Finally, the technological platform is also a tool used at SUNARP level for the registration of documents as indicated in question 5.

11) Are there any Notary or Apostille requirements in [Perú]? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

In general terms, all documents issued abroad with manual or electronic signature must be duly apostilled for their validity in Peruvian entities; however, there are administrative procedures before the aeronautical authority that validate some documents issued abroad with simple or manual signature.

a. Has [Perú] implemented the e-Apostille program?

It is in process to be implemented, by the moment it is subject to the evaluation of the kind of document to be apostilled; so it does not apply to all documents.

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Philippines



Philippines

Law Firm: *Tan Hassani and Counsels*

Author(s): *Kerwin K. Tan and Eugene T. Kaw*

- 1) **Is there specific legislation in the Philippines ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

None as of this date.

- 2) **If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

N/A

- 3) **Does the Aviation Authority in the Philippines use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

It might be possible that the Aviation Authority uses some type of electronic register, but it is not publicly available and would not be accessible to the general public (it would likely be an intranet that is only available and accessible to the regulators).

- 4) **If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in the Philippines?**

N/A

- 5) **Are there any documents that are not required for registration with the Aviation Authority in the Philippines but can be valid and enforceable by the use of some type of digital certification?**

None as of this date.

- 6) **Is it possible to upload lawsuits, pleadings and procedural documents electronically in the Philippines?**

Currently, and as of this date, the Philippine judiciary and administrative agencies exercising quasi-judicial power do not have electronic platforms where lawsuits, pleadings, and documents can be uploaded. However, for documents bound for the Philippine Supreme Court (the High Court), electronic copies of all papers and annexes must be submitted via electronic email within 24 hours from the filing of the physical hard copies, which would still have to be filed via personally, via registered mail, or through an accredited courier, both of which electronic and filed copies must be the exact copies.

Generally, therefore, while some pleadings in judicial actions can be sent by email to the Philippine Supreme Court with the scanned signed document attached, the actual physical wet-signed documents are still customarily filed with respect to other judicial bodies and courts. This is also true for the Aviation Authority and for other administrative agencies.

- 7) **Do the courts of the Philippines accept procedural documents executed digitally? Is there any specific certification required? Does the Philippines make any distinction between official digital signatures and private digital signatures?**

Generally, while some pleadings in judicial actions can be sent by email with the scanned signed document attached, the physical wet-signed documents are still customarily filed with the relevant office and courts. This is also true for the Aviation Authority. For digital signatures, these are more recognized and accepted in the executive department, through the various administrative agencies, rather than the judiciary. Whenever accepted, there is a distinction made between official and private digital signatures. There is likewise no specific certification or authentication form or requirement from judicial courts and administrative bodies. Thus, they remain validly submitted and filed unless otherwise challenged.

- 8) **Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

In 2001, the Electronic Commerce Act came into force and aimed to facilitate international transactions, contracts, and exchanges and storage of information through the utilization of electronic medium, as well as the technology to recognize the authenticity of electronic documents related to such transactions. This Act officially and legally initiated the recognition of electronic signatures and digital signatures.

In response to the Electronic Commerce Act, the High Court of the Philippines issued the electronic evidence rules. It is now recognized that electronic documents are the functional equivalents of paper-based documents such that whenever a rule of evidence refers to the term writing or document, such term shall be deemed to include an electronic document. As such, an electronic document is admissible in evidence if it complies with the rules on admissibility and can be authenticated in the manner prescribed by the rules on electronic evidence.

As to using digital signatures on electronic documents, while there is no formality requirement on how it is affixed to the electronic document, the important aspect of digital signatures is the authentication process required to be done under the rules on electronic evidence.



Philippines
Continued...

A “digital signature” refers to, and must comply with the definition as, an electronic signature consisting of a transformation of an electronic document or an electronic data message using an asymmetric or public cryptosystem such that a person having the initial untransformed electronic document and the signer’s public key can accurately determine: i) whether the transformation was created using the private key that corresponds to the signer’s public key; and ii) whether the initial electronic document had been altered after the transformation was made.

The rules provide for authentication of both the electronic document and the electronic or digital signature.

9) Can foreign entities not located in the Philippines execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in the Philippines? Are there any other formalities required?

No. Any document signed outside the Philippines for filing at the Aviation Authority would require such document to be either apostilled or consularized at the Philippine Consulate.

10) Does the Aviation Industry in the Philippines usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No, as of this date.

11) Are there any Notary or Apostille requirements in the Philippines? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Yes. Any document signed outside the Philippines for filing at the Aviation Authority would require such document to be either apostilled or consularized at the Philippine Consulate. If the document is electronically executed outside of the Philippines, so long as the Aviation Authority receives the original apostilled (or consularized) document, it will accept such document.

However, we note that there is a difference between the apostille and the consularization process. In order to apostille, the local laws of the country where the document is to be executed govern the formalities of the apostille. Therefore, if the local laws allow the electronic execution of a document and its eventual apostille, so long as the Aviation Authority receives the original apostilled documents, it will accept such documents.

For consularization, the Philippine Consulate, where located, would have its own rules for consularization (signing formalities). Generally, the consularization process requires that the document be wet signed in front of the consular officer. Therefore, electronic execution for documents to be consularized might not be allowed.

a. Has the Philippines implemented the e-Apostille program?

It is still under consideration to date.

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Poland



Poland

Law Firm: *Wardyński & Partners*

Author(s): *Maciej Zych, Paweł Mazur*

- 1) Is there specific legislation in Poland ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

Yes. Poland being a Member State of the EU, is bound by the eIDAS Regulation¹, which i.e., obliges all Member States to recognize qualified electronic signatures (QES) as equivalent to a handwritten signature and to allow evidence from electronic signatures (not only handwritten) in legal proceedings (art. 25 of eIDAS Regulation).

The eIDAS Regulation regime is supported and expanded by national legislation. The Civil Code stipulates in art 781 that a statement in an electronic form that is signed using a QES is deemed equivalent to a written document. Furthermore, it is a general rule of Polish civil law that - unless there are statutory or contractual requirements to the contrary - documents, including contracts, can be made in any form., as long as the intentions and consent of all parties to a contract or another instrument is clear and can be proven before court.

All the above applies to administrative proceedings before the Polish Civil Aviation Authority and evidence presented in such proceedings, so in effect, parties can - in principle - rely on documents executed electronically as long as they can prove that authorized persons have indeed executed the document.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

In general, no. Please note the comment to pt. 1) above.

However, there can be exceptions stemming from statutory or contractual requirements of form. In particular, if the law requires a written form for a document 'under the pain of being void', it could only be replaced by a document executed with a qualified electronic signature. Of course, if the governing law requires a special form for a given document (e.g., a notarial deed, notarization of signatures), it cannot be replaced by any electronic format.

Also, electronic filings made with administrative authorities (including CAA) have to be made in one of the formats provided for in art. 14 of the Code of Administrative Proceedings, including a QES or a specific Polish government digital platform. A simple

e-mail or message using platforms such as WhatsApp, Messenger or Telegram will not be accepted as a formal filing in legal proceedings (e.g., for registration or license).

- 3) Does the Aviation Authority in Poland use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No, the aircraft register itself is an archive of paper-copy documents, including the registration forms and attachments, such as copies of lease agreements or bills of sale.

The CAA does have an internal electronic database that reflects the current contents of the register, but it is only for informative purposes. Moreover, it can only be accessed by the CAA.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Poland?**

N/A

- 5) Are there any documents that are not required for registration with the Aviation Authority in Poland but can be valid and enforceable by the use of some type of digital certification?**

See response to q. 1 above. As a general rule, documents can be executed in any form, including electronically, and that does not prevent them from being valid and enforceable (subject to special form requirements).

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Poland?**

The situation varies depending on the type of legal proceedings.

In civil and criminal litigation, electronic format is not accepted for party submissions yet, although there are plans to change this. At the same time, courts in civil litigation can serve court documents (including rulings and summons) using a digital platform.

As noted in p. 2, in administrative proceedings, filings can be made electronically in one of the accepted formats.

- 7) Do the courts of Poland accept procedural documents executed digitally? Is there any specific certification required? Does Poland make any distinction between official digital signatures and private digital signatures?**

No - see the response to pt. 6).



Poland
Continued...

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

See pt. 1) above. As a rule, documents can be executed in any electronic form that demonstrates the consent of all parties involved - subject to special form rules required for specific types of actions or filings. Express consent to digital signatures is not required.

9) Can foreign entities not located in Poland execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Poland? Are there any other formalities required?

See pt. 1) and 2) above. Yes, foreign entities not located in Poland can execute Lease Agreements and Finance Documents with digital signatures. However, for practical purposes (to make proof of valid signing easier), it is best to either have hand-signed copies or use a qualified electronic signature.

10) Does the Aviation Industry in Poland usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in Poland? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Notarized form is required for some transactions and statements governed by Polish law, including for a pledge agreement (which is the local equivalent of an aircraft mortgage). Whenever notarization is required, electronic execution of documents is generally excluded (or, at the least, an additional carbon copy with hand signatures is required).

Apostille is generally required for documents issued by foreign public authorities that are presented to Polish authorities or courts, e.g., excerpts from foreign aircraft registers shown to the Polish CAA at registration. Since local law governs the procedure for applying apostille, in principle, Polish authorities should accept electronically signed foreign documents with valid apostille.

a. Has Poland implemented the e-Apostille program?

No.

1 Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

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Portugal

APTS | ALVES PEREIRA & TEIXEIRA DE SOUSA RL

Portugal

Law Firm: *APTS – Alves Pereira, Teixeira de Sousa & Associados*

Author(s): *João Marques de Almeida and Carolina Soudo Rufino*

1) Is there specific legislation in Portugal ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

There is no specific local law or regulation applicable to the aviation sector.

Because Portugal is an EU Member State, the rules set forth by Regulation (EU) nr. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market (eIDAS Regulation) shall apply, together with Decree-Law 12/2021 on the 9th of February, which regulates the effects, validity and probatory value of electronic documents and e-signatures.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?

There are three different types of e-signatures:

- Standard (unsecured) Electronic Signature (SES) – means data in electronic form that is attached to or logically associated with other data in electronic form and which is used by the signatory to sign;
- Advanced Electronic Signature (AES) – means an electronic signature that is i) uniquely linked to the signatory; (ii) capable of identifying the signatory; (iii) created using electronic signature creation data that the signatory can, with a high level of confidence, use under his sole control; and (iv) linked to the data signed therewith in such a way that any subsequent change in the data is detectable.
- Qualified Electronic Signature (QES) – means an advanced electronic signature that is created by a qualified electronic signature creation device and which is based on a qualified certificate for electronic signatures.

QES meets the highest standard of security and is the only signature type that has the same legal effect as a handwritten signature.

Portugal, as a member of the European Union, follows ETSI (European Telecommunications Standards Institute) standards to define the technical requirements for QES.

QES must originate from a Qualified Signature Creation Device (QSCD) and be issued from a Trust Service Provider (TSP) on Portugal's list of TSP providers.

A QES is automatically granted, free of charge, by the Portuguese Government to each Portuguese citizen (attached to the Portuguese Identity Card) and said e-signature can be

used for signing documents in a vast number of Public and Private Services.

3) Does the Aviation Authority in Portugal use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No. Since any document to be filed with the Portuguese CAA must be notarized with confirmation of the powers of the signatory to bind the applicant, the Portuguese CAA does not accept submissions made only digitally (digital submissions must be followed with the delivery of the original documents). However, registration certificates digitally signed by the Portuguese CAA can be provided by email.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Portugal?

Yes, but the digital fillings must be followed by wet ink versions (original documents), with the signatures duly notarized.

5) Are there any documents that are not required for registration with the Aviation Authority in Portugal but can be valid and enforceable by the use of some type of digital certification?

Documents e-signed using QES are generally valid and accepted in Portugal, except if and when Portuguese law requires notarization (with confirmation of the signatory's powers to bind the company).

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Portugal?

Yes, all court cases are managed electronically and through an official website from the Portuguese Ministry of Justice. Thus, all pleadings and documents must be submitted digitally only through the said official website using the QES granted to all Portuguese-qualified lawyers.

7) Do the courts of Portugal accept procedural documents executed digitally?

Yes, see the answer to question 6) above.

Is there any specific certification required?

Yes, see the answer to question 6) above.

Does Portugal make any distinction between official digital

Portugal
Continued...

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signatures and private digital signatures?

Yes, see the answer to question 2) above. Only documents signed using QES will be deemed, by law, as handwritten signed documents. QES must originate from a Qualified Signature Creation Device (QSCD) and be issued from a Trust Service Provider (TSP) on Portugal's list of TSP providers.

8) Are there any formal requirements for the validity of documents executed by digital signatures?

See the answer to question 2) above. Documents which, under Portuguese law, must be notarized or subject to public deed cannot be executed by e-signature.

Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No.

9) Can foreign entities not located in Portugal execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Portugal? Are there any other formalities required?

Portuguese CAA requires all documents and agreements to be notarized with express confirmation of the signatory's powers to bind the company. Thus, e-signatures cannot be used.

For documents from foreign entities, legalization or the Apostille of the Hague Convention shall also be required.

10) Does the Aviation Industry in Portugal usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Not to our knowledge.

11) Are there any Notary or Apostille requirements in Portugal? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Portuguese CAA requires all documents and agreements to be notarized with express confirmation of the signatory's powers to bind the company. Thus, e-signatures cannot be used.

Portuguese CAA will accept registration filings made by email, but all filings must be followed with the original (wet ink) documents.

a. Has Portugal implemented the e-Apostille program?

No, Portugal has not implemented the e-Apostille program but will accept e-Apostilles from other contracting States which have implemented said program.

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Puerto Rico



Puerto Rico

Law Firm: *Estrella LLC*

Author(s): *Odemaris Chacón Varona, Esq.*

1) Is there specific legislation in Puerto Rico ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

Please refer to my answer to Question #3. For PR-specific documents (not preempted by federal legislation), local law allows for electronic signatures. 10 L.P.R.A. §4086. Also, please note that some of the documents mentioned in the question, ex. mortgages need to be executed through public deeds. In the case of public deeds in Puerto Rico, they cannot be executed either through digital platforms or electronic signatures. They are done in person.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

There are no specific platform and/or technological requirements.

3) Does the Aviation Authority in Puerto Rico use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

Not applicable. There's no local Puerto Rico Aviation Authority. The Federal Aviation Act (FAA), 49 U.S.C. § 40103 (a)(1), states that the government of the United States "has exclusive sovereignty of airspace of the United States." Pursuant to 49 U.S.C. §41713 (b)(1) of the Airline Deregulation Act (ADA), the general rule is that "... a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of an air carrier that may provide air transportation under this subpart." As evidenced by the aforementioned section of the ADA, the states have no jurisdiction in matters related to pricing, routes and services offered by air carriers since there's preemption.

Please note that §41713 (a) of the ADA also indicates that the word "State" includes the fifty (50) states, the District of Columbia, and the territories or possessions of the United States. Puerto Rico is a territory of the United States. Therefore, Puerto Rico is included under the definition of "State," which means that the ADA applies in Puerto Rico.

The term "related to a price, route, or service" should be interpreted to preempt state law claims "having a connection with, or reference to, airline rates, routes, or services."

American Airlines, Inc. v. Wolens, 513 U.S. 219, 223 (1995) (quoting Morales v. Trans World Airlines, Inc., 504 U.S. 374, 384 (1992) (internal quotations marks omitted).

4) If your reply to question 3 is yes, is it possible to upload

electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Puerto Rico?

Please see my answer to question #1.

5) Are there any documents that are not required for registration with the Aviation Authority in Puerto Rico but can be valid and enforceable by the use of some type of digital certification?

Please see my answer to question #3.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Puerto Rico?

Both the Puerto Rico State Court and the Puerto Rico Federal District Court have websites where you can upload lawsuits, pleadings and motions in electronic format.

7) Do the courts of Puerto Rico accept procedural documents executed digitally?

Yes. Documents signed electronically are accepted. If you mean whether you could include them as exhibits, yes. However, in order to decrease the chances of a valid challenge, preferably, it should be at least a certified copy of the digitally executed document. If you mean motions executed digitally, that should not be a problem, as Puerto Rico First Instance State Court allows for electronic signatures in motions. The attorneys simply sign with a "s/insert attorney's name", rather than with a signature per se. Please note that the Court of Appeals and the Supreme Court still require motions to be signed with wet signatures.

Is there any specific certification required?

No, certification is required. However, the digital signatures accepted in motions for the Court of First Instance must be the "S/" and not a digital copy of the physical signature.

Does Puerto Rico make any distinction between official digital signatures and private digital signatures?

No.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No.

9) Can foreign entities not located in Puerto Rico execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Puerto Rico? Are there any other formalities required?

Please refer to my answer to question #3. However, I will add

Puerto Rico *Continued...*

that if any real property was involved, it would need to also comply with the Puerto Rico requirements. However, I don't think that's the case with the registration involved with the Aviation Authority.

10) Does the Aviation Industry in Puerto Rico usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Please refer to my answer to question #3.

11) Are there any Notary or Apostille requirements in Puerto Rico?

Those who require the certification of a document to be used in a foreign country must use the apostille or certification service, as corresponds, which is issued by the Puerto Rico Department of State. Its purpose is to authenticate the signatures of public officials on documents to be used outside Puerto Rico.

For Hague Convention countries, an apostille is issued pursuant to the mentioned convention. In the case of non-Hague Convention countries, a certification is issued instead of an apostille.

The document or certificate to be apostilled must be original. In the case of public deeds, you must present a certified copy of the deed issued by the notary public with the corresponding stamps canceled.

If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Puerto Rico notaries are still not allowed to issue certifications for electronic signatures of third parties, thus not being able to apostille documents from them. However, note that there is currently legislation pending examination to amend this.

a. Has Puerto Rico implemented the e-Apostille program?

No, it has not.

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Romania



LEAUA DAMCALI DEACONU PAUNESCU
Attorneys & Counselors

Romania

Law Firm: *Leaua Damcali Deaconu Paunescu - LDDP*

Author(s): *Professor Crenguta Leaua and Corina Tanase*

1) Is there specific legislation in Romania ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

There is no provision in the aviation legislation expressly providing that the Romanian Civil Aeronautical Authority ("RCAA") must receive documents executed with the use of digital platforms or electronic signatures.

However, in relation to aircraft registration, Subchapter 1:6.1 para (1) of the Romanian civil aeronautical regulations "Registration of civil aircraft" Edition 1/2016 (hereinafter "Romanian Registration Regulation") provides that all documents submitted to RCAA must be in original or notarized copy in accordance with Romanian law.

Law no. 455/2001 regarding the electronic signature ("Law 455/2001") provides that "the electronic document that has an extended electronic signature incorporated, attached or logically associated, based on an unsuspended and unrevoked qualified certificate and generated with the help of a secured device for creating the electronic signature, is assimilated, as regards its conditions and effects with the document privately signed." Furthermore, if the law requires for a document to be in writing as a condition of validity or proof, such condition is considered met if an extended electronic signature is included as per Law 455/2001.

Thus, a document bearing an extended electronic signature as regulated by Law 455/2001 is assimilated to an original document and should be acceptable for RCAA.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The extended electronic signature must fulfil the following cumulatively conditions: (i) is uniquely linked by the signatory, (ii) ensures the identification of the signatory, (iii) is created by means controlled exclusively by the signatory, and (iv) is linked by the data in electronic format in such a manner as to allow identification of any subsequent change.

Also, the extended electronic signature must be based on an unsuspended and unrevoked qualified certificate and must be generated with the help of a secured device for creating the electronic signature.

The secured device for creating the electronic signature is the configured software and/or hardware used to implement any data in electronic form with unique characters, such as private cryptographic codes or keys. Such secured device must meet the following cumulative conditions:

- a) the signature creation data used in order for the signature to be generated must appear only once, and their confidentiality must be ensured;

- b) the signature creation data used in order for the signature to be generated must not be deduced;
- c) the signature must be protected against forgery by the technical means available at the time the signature is generated;
- d) the signature creation data must be effectively protected by the signatory against their use by unauthorized persons;
- e) not to modify the data in electronic form, which must be signed, nor to prevent them from being presented to the signatory before the completion of the signing process.

Mention is made that the qualified certificate for the electronic signature must be issued by a specialized company authorized to this end in Romania and must fulfil certain conditions. If the issuer of the qualified certificate has the headquarters within another state, in order for such certificate to have the same effects as a Romanian one: (i) the supplier must be authorized, (ii) a Romanian-authorized supplier guarantees the certificate, (iii) the certificate or the supplier is recognized through a bilateral or multilateral agreement, based on reciprocity.

3) Does the Aviation Authority in Romania use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

RCAA manages the following registries:

- Unique registry for registration of civil aircraft ("RUIAC");
- Registry of securities; and
- Registry of deregistration.

Data from RUIAC are only partially available online. The other registries are not available online.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Romania?

RCAA is in the process of digitalization of its activity.

Currently, the documents pertaining to the following activities may be submitted online in electronic format:

- Reservation of registration/identification marks;
- Aircraft registration;
- Registration of unmanned free balloons with payload;
- Data modification within RUIAC;
- Aircraft deregistration from RUIAC;

Romania Continued...

- Issuance of registration/identification/deregistration duplicate certificates;
- Provisional aircraft registration;
- Entries in the Registry of securities;
- Modification of the securities mentioned in the Registry of securities;
- Provision of information from RUIAC or from the Registry of securities.

Mention must be made that if the above-listed applications and documents are submitted in electronic format, the issuance of the requested documents by RCAA shall be made provided that the entire documentation is filed to the RCAA in accordance with the provisions of Subchapter 1:6.1 para (1) of the Romanian Registration Regulation. Subchapter 1:6.1 para (1) of the Romanian Registration Regulation provides that all documents submitted to RCAA must be in original or notarized copy in accordance with Romanian law.

5) Are there any documents that are not required for registration with the Aviation Authority in Romania but can be valid and enforceable by the use of some type of digital certification?

As shown in the Answer to Question no. 2, a document is considered validly signed using an extended electronic signature as long as the conditions provided by Law 455/2001 are met.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Romania?

In accordance with the Romanian Civil Procedure Code, any request addressed to the Romanian Courts may be filed in writing in electronic form if the conditions provided by the law are met.

In July 2023, the Romanian Supreme Council of Magistracy launched the national portal for submitting lawsuits, pleadings and procedural documents: registratura.rejust.ro. The national portal is a single electronic point of request for services for all active courts in Romania and may be used free of charge.

7) Do the courts of Romania accept procedural documents executed digitally? Is there any specific certification required? Does Romania make any distinction between official digital signatures and private digital signatures?

The courts of Romania may accept procedural documents executed digitally as long as they bear a valid extended electronic signature.

The Romanian High Court of Cassation and Justice (Decision 520/2019 rendered on 7 March 2019) held that an extended electronic signature used by the parties in relation to the court "connects that electronic identity of the signatory with the digital documents, not being able to be copied from a digital document on another one, this granting authenticity to the document."

Accordingly, the High Court recognized the effects of the extended electronic signature and accepted it as it would have

a signature made by hand, stating that the extended electronic signature "offers the court a guarantee of the fact that the digital message or document is created by the person that signed it, and the content of the digital message or of the document was not modified from the date of its issuance."

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

A document is considered validly signed using an extended electronic signature as long as the conditions provided by Law 455/2001 are met. For details, please see Answer to Question no. 2.

9) Can foreign entities not located in Romania execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Romania? Are there any other formalities required?

Foreign entities not located in Romania may execute documents with a digital signature as long as the requirements provided by Law 455/2001 are met. For details, please see Answer to Question no. 2.

10) Does the Aviation Industry in Romania usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No, but there is a tendency to digitalize the public sector in Romania, and this is likely to happen in the near future.

11) Are there any Notary or Apostille requirements in Romania? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Romania implemented the e-Apostille program?

The Romanian Registration Regulation provides that the documents issued by foreign authorities or institutions are filed apostilled or legalized.

Romania did not implement the e-Apostille program.

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Serbia

karanovic/partners

Serbia

Law Firm: *Karanovic & Partners*

Author(s): *Ana Stanković, Marjan Poljak*

- 1) Is there specific legislation in Serbia ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

There is no legislation in Serbia governing specifically the use of documents executed with the use of digital platforms/electronic signatures by the Civil Aviation Directorate of the Republic of Serbia, as the local Aviation Authority (the "Directorate").

Electronic signing is generally governed by the Law on Electronic Document, Electronic Identification and Trust Services in Electronic Business (the "Law"). In accordance with the Law, only qualified electronic signatures have the equivalent legal effect of handwritten signatures.

However, in practice, the Directorate does not accept submissions of electronic documents such as PoAs, Lease Agreements, Novation Agreements or Mortgages. Therefore, such documents which are filed with the Directorate should be signed in wet ink.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures? Such as completion with a specific cryptographic platform developed by any local institute of technology?**

As mentioned, submission of specific documents mentioned in question 1) above in electronic form to the Directorate is not possible.

The qualified e-signature is the only substitute for a handwritten signature under the Law. Therefore, whenever it is specifically required that a document be signed in wet-ink (and there are no prohibitions for such document to be e-signed), the qualified e-signature is the only viable option for e-signing. A qualified e-signature is defined as an advanced e-signature that is: (i) created by a qualified electronic signature creation tool, (ii) based on a qualified electronic signature certificate, and (iii) issued by a competent certification authority, in accordance with the Law.

- 3) Does the Aviation Authority in Serbia use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No, the Directorate does not keep an electronic register for Aircraft Documents. The Directorate keeps an electronic aircraft register containing data on registered aircraft (manufacturer and manufacturer sign, operator, plates, serial number, and type of aircraft). Other data (leases, mortgages) are not publicly available and can be obtained based on a written request submitted to the Directorate.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Serbia?**

No, this is not possible.

- 5) Are there any documents that are not required for registration with the Aviation Authority in Serbia but can be valid and enforceable by the use of some type of digital certification?**

Yes. Generally, under the Law, any agreement (unless specifically prohibited by special regulations), except agreements, which must be concluded before a notary public, can be executed with the use of an appropriate type of e-signature.

The Law recognizes three types of e-signatures - simple, advanced and qualified e-signature. The Law further stipulates that the advanced signature must meet the following requirements:

- it must be uniquely linked to the signatory;
- it is capable of identifying the signatory;
- it is created using e-signature creation data that the signatory can, with a high level of confidence, use under his sole control;
- it is linked to the data signed therewith in such a way that any subsequent change in the data is detectable.

In practice, a wide set of agreements can be e-signed, provided that general rules of the Law regulating e-signing are followed. "Simple" agreements and documents are the ones typically signed by e-signatures. These include, for example, commercial agreements, including invoices, purchase orders, leases, simple loan and sales agreements, consumer agreements, etc.

A qualified e-signature is the only substitute for a handwritten signature under the Law. Therefore, whenever it is specifically required that a document be signed in wet-ink (and there are no prohibitions for such document to be e-signed), the qualified e-signature is the only viable option for e-signing.

It should also be noted that, due to the undeveloped practice of competent authorities and uncertainty concerning their position, contractual parties, in practice, tend to conclude any commercially important agreements in writing (or at least with the use of a qualified e-signature), in order to avoid any ambiguities concerning their validity.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Serbia?**

Yes, this is possible. Electronic documents can be submitted via e-mail to the designated court e-mail address for receiving

Serbia
Continued...

electronic submissions. In practice, it is still usual to submit documents to courts physically.

7) Do the courts of Serbia accept procedural documents executed digitally? Is there any specific certification required? Does Serbia make any distinction between official digital signatures and private digital signatures?

Even this possibility is foreseen under the law. In practice, only the Serbian Administrative Court accepts procedural documents executed digitally.

There is a distinction between official and private digital signatures in Serbia. A qualified e-signature is the only official digital signature recognized in Serbia, as solely qualified e-signatures are issued by competent certification authorities, public or private entities, in Serbia. Exceptionally, these could also be foreign providers of trust services in electronic business, which are registered in the countries with which Serbia has entered into a bilateral agreement on mutual recognition of providers of such services.

Advanced and simple e-signatures fall into the category of private digital signatures. Advanced e-signatures can generally be used by private entities for "simple" transactions and include, for example, Adobe or DocuSign AES solutions. Simple e-signatures cover the widest range of e-signatures in practice, including "tick-box" signatures, signatures created by a stylus or typed signatures used, e.g., for signing e-mails but are not considered as officially recognized, which is only the qualified digital signature issued by public or private entities.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

No, there are no other formal requirements for the validity of such documents.

This means that, except for agreements that must be concluded before a notary public and agreements where digital signing is prohibited by special regulations, documents executed by digital signatures are valid with no additional requirements.

The consent of the parties to digital signatures does not have to be expressly referred to in the agreement.

9) Can foreign entities not located in Serbia execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Serbia? Are there any other formalities required?

No. Documents submitted to the Directorate have to be executed in wet ink. For example, documents such as IDERA (please note that Serbia didn't ratify the Cape Town Convention and an equivalent to IDERA would be a deregistration PoA) must be notarized under Serbian law, which means that such documents signed by entities not located in Serbia would have to be notarized and depending on country of notarization, apostilled (or legalized).

karanovic/partners

10) Does the Aviation Industry in Serbia usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No, printed paper aviation documents are generally used. The Directorate does not use blockchain technology.

11) Are there any Notary or Apostille requirements in Serbia? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Serbia implemented the e-Apostille program?

Yes, there are notary and (in certain cases) apostille requirements for specific documents (for example, deregistration PoA has to be signed before a notary and, depending on the country of signing, apostilled or legalized). The Law stipulates those agreements and other legal transactions which, under law, must be performed before a notary public, and cannot be executed with the use of electronic signatures. These agreements cannot be executed with the use of digital platforms or any electronic signatures, regardless of whether they must be submitted to the Directorate.

Serbia has not implemented the e-Apostille program. Except the Serbian Business Registry, no other Serbian authority accepts e-Apostille from other countries.

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Slovenia

ketler/partners member of
karanovic/

Slovenia

Law Firm: Ketler & Partners, member of Karanovic

Author(s): Kevin Rihtar

1) Is there specific legislation in Slovenia ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

In Slovenia, electronic signing and the use of digital platforms are generally governed by Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market ("eIDAS Regulation"). The eIDAS Regulation does not specifically rule the use of documents such as Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs executed with digital platforms or electronic signatures. General rules of the eIDAS Regulation also apply to the documents mentioned.

Generally, electronic form (including signature) is equivalent to written form, provided that the information in electronic form is accessible and available for future reference. Digital platforms may be used; however, the validity of such signatures may be challenged, so it is recommended to use qualified electronic signatures, which are only electronic signatures that are equivalent to a handwritten signature. Therefore, if a document or agreement must be hand-signed, the only electronic signature that may be used is a qualified electronic signature.

Civil Aviation Agency Slovenia ("Agency") does not issue electronically signed documents.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

N/A. Please note that the eIDAS Regulation sets out the legal framework for electronic signatures and distinguishes between low, medium, and high levels of assurance. A process requiring a high level of assurance consequently requires a qualified electronic signature, which is also the only equivalent to a handwritten signature.

3) Does the Aviation Authority in Slovenia use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

No. However, certain information regarding the lease, security agreements and mortgages may be obtained from the Slovenian Aircraft Register (please note that such general inquiries are only available to qualified users, whereas information on aircraft mortgages may be obtained a via request to obtain current data about ownership and mortgages and upon payment of the fee).

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Slovenia?

Uploading electronic files for registration with the Agency is not possible; however, documents may be submitted to the Agency via e-mail.

5) Are there any documents that are not required for registration with the Aviation Authority in Slovenia but can be valid and enforceable by the use of some type of digital certification?

As mentioned above, no special regulations regarding the use of electronic signatures apply before the Agency.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Slovenia?

Yes, it is possible to upload lawsuits, pleadings and procedural documents in civil procedures via "esodstvo" system. In addition, any procedural documents in relation to land register, enforcement and insolvency proceedings shall also be filed electronically.

In practice, many documents are still submitted by post.

7) Do the courts of Slovenia accept procedural documents executed digitally? Is there any specific certification required? Does Slovenia make any distinction between official digital signatures and private digital signatures?

Yes, procedural documents executed digitally are accepted. As mentioned above, electronic signatures equivalent to a handwritten signature are only qualified electronic signatures (i.e., secure electronic signatures that are authenticated by a qualified certificate, regardless of official or private digital signature status).

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

There are no other formal requirements for the validity of the documents executed by digital signatures. There is also no legal obligation to expressly state in the contract that the contract will be signed with an electronic signature.

Slovenia

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9) Can foreign entities not located in Slovenia execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Slovenia? Are there any other formalities required?

Foreign entities not located in Slovenia may execute Lease Agreements or Finance Documents with digital signatures (if written form is required, qualified electronic signatures must be used). Lease Agreements must be concluded in a written form, whereas written form includes electronic form and, therefore, a qualified electronic signature.

10) Does the Aviation Industry in Slovenia usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Printed paper aircraft documents are generally used. The Agency does not use blockchain technology.

11) Are there any Notary or Apostille requirements in Slovenia? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Notary requirements only apply to a statement given by the aircraft owner for entry of the aircraft in the Slovenian Aircraft Register. Depending on the place of notarization, an apostille may be required (and an official translation into the Slovenian language).

Notarization and apostille requirements also apply to electronically executed documents. In the notarization in electronic form, the Slovenian notary must indicate how the identity of the party was established and how the validity of the qualified electronic signature was verified. The notarization in electronic form must be linked to the original document in electronic form on which the signature is authenticated or to a scan script thereof, so it is impossible to separate them. The notary must electronically sign the notarization in electronic form with a qualified electronic signature, secure it with a qualified electronic seal and accompany it with a qualified electronic time stamp.

a. Has Slovenia implemented the e-Apostille program?

Yes, but only for public documents originally issued in electronic form, containing the electronic source document to be authenticated or a scan-script thereof, so it is impossible to separate them.

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Spain



Spain

Law Firm: *Augusta Abogados, S.L.P.*

Author(s): *Sergio Giménez Binder / Laia Malet Pérez*

1) Is there specific legislation in Spain ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

In general terms, aircraft transaction documents are still being signed and executed in the traditional manner (i.e., handwriting). In fact, the regulations of the Spanish Aircraft Registry specifically request that signatures be legalized by a notary public. Digital signatures are also permitted, but only for so long as they are “advanced and qualified digital signatures”, i.e., those which have been awarded by certain Spanish official bodies. Normally foreign parties do not have this kind of signature. As a result, documents executed through public platforms that are not officially accepted by the Spanish authorities would not be acceptable.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The Spanish Aviation Agency AESA has developed its own platform, which enables citizens to communicate with AESA and vice versa. This platform is used in connection with regulatory issues such as AESA inspections, fines, etc. and also for passenger claims. Documents relating to the registration of aircraft are also filed with the help of this platform. However, it does not allow for transaction closings.

Generally speaking, Regulation (EU) No. 910/2014 of 23 July 2014 on electronic identification and trust services for electronic transactions (“eIDAS Regulation”), which is in force for Spain, establishes the legal framework for electronic identification and trust services, including electronic signatures and the conditions for mutual recognition among EU Member States. The Regulation provides for a pan-European level public key infrastructure for the identification and authentication of electronic signatures in public services. The Spanish Act 6/2020 enacted certain detailed provisions of the eIDAS Regulation, providing for a legal framework in Spain for the use of electronic signatures and recognition of their legal validity.

3) Does the Aviation Authority in Spain use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

As mentioned above, the Aircraft Registry operated by AESA is nowadays an electronic register. The main rules governing this Registry are to be found in its Regulations (contained in Royal Decree 384/2015); the electronic aspects are governed mainly by the Act 39/2015 on the Common Administrative Procedure of the Public Administrations (“LPACAP”) and Royal

Decree 203/2021, of 30 March, which approves the Regulation of action and operation of the public sector by electronic means (“RD 203/2021”).

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Spain?

Spain has a dual registration system. In general terms, aircraft transaction documents must first be filed with the Central Movable Assets Registry. This Registry only accepts paper documents for the time being. Once the transaction documents have been cleared by the Movable Assets Registry, they must be filed with the Aircraft Registry. As indicated above, this is done electronically through AESA’s platform. To this end, the documents are submitted as PDF files.

5) Do the Spanish courts consider valid and enforceable documents executed by the use of some type of digital signature or certification, even if not registered (or registrable) with the local Aviation Authority?

The eIDAS Regulation ensures legal equivalence between a qualified electronic signature and a handwritten signature but allows Member States to determine the effects of other (non-qualified) electronic signatures and of trusted electronic services in general. For this purpose, the Act 6/2020 establishes a clear evidentiary advantage when electronic documents contain qualified electronic signatures issued by service providers listed in the “Trusted List of Qualified Service Providers of Electronic Services.”

Article 3 of the Act 6/2020 establishes the legal evidentiary effectiveness of private electronic documents when their authenticity is not contested by the party to whom they are addressed, in accordance with the Civil Proceedings Act.

For evidentiary purposes, the Spanish courts distinguish between the effectiveness of documents that have been signed by means of an electronic certificate issued by a non-qualified trust service and those signed by means of an electronic certificate issued by a qualified electronic trust service, which is included in the “Trusted List of Qualified Trust Service Providers.” Generally speaking, the burden of proof lies on the challenging party where qualified signatures have been used; where the dispute relates to the authenticity of a non-qualified signature, then the party that used such signature must prove its authenticity.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Spain?

Yes, it is not just possible but required nowadays. The Civil Proceedings Act obliges all legal professionals to use the existing telematic or electronic systems in the Administration of Justice for the submission of pleadings, whether or not it

Spain Continued...

initiates legal proceedings, and other documents, in such a way that the authenticity of the submission is guaranteed and there is a reliable record of the full submission and receipt, as well as the date of submission.

The submission of writs or documents by telematic or electronic means must be carried out by means of a recognised or qualified electronic signature, in accordance with the provisions of Law 18/2011, of 5 July, regulating the use of information and communication technologies in the Administration of Justice.

The Spanish Ministry of Justice has established a specific system for these purposes called Lexnet (LexNET Justicia), and certain regions in Spain with authority to legislate on this topic have implemented their own platforms (EJusticia, Vereda, Avantius, Justizia).

7) Do the courts of Spain accept procedural documents executed digitally? Is there any specific certification required? Does Spanish jurisdiction make any distinction between official digital signatures and private digital signatures?

As explained in the previous point, all procedural documents must be submitted through one of the official platforms, such as Lexnet.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

There is no specific provision in this respect. It is generally understood that parties tacitly agree to using digital signatures when both use them or where one party does not object to this. The main exception would be those types of transactions or documents that, by virtue of imperative legal provisions, require a certain form (such as notarial documents and the like).

9) Can foreign entities not located in Spain execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Spain? Are there any other formalities required?

In addition to the remarks made in the previous points, AESA's Resolution of 3 November 2021 contemplates a specific procedure so that non-Spanish companies and citizens may obtain an official digital signature that enables them to interact with AESA's platform. This system is styled e4F (eSignature for Foreigners). However, as mentioned previously, the system does not allow for the execution of transaction documents.

10) Does the Aviation Industry in Spain usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Due to the restrictions described in the previous paragraphs, blockchain technology is not yet widely spread in connection with transaction documents. As far as aircraft documents are concerned, AESA began only recently to accept electronic documents, but there are still a number of restrictions that impair the use of these new technologies.

11) Are there any Notary or Apostille requirements in Spain? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

Public and private documents accrediting the acquisition of ownership or possession of the aircraft for registration in the Aircraft Registry, when granted in foreign territory, must be legalized with the Apostille provided for in 1961 The Hague Convention. Where the country involved is not a party to the Convention, then other more traditional systems must be followed, such as legalization through diplomatic channels.

a. Has Spain implemented the e-Apostille program?

The need to adapt the Apostille to technological means has been implemented in the Spanish legal system by Order JUS/1207/2011, which creates and regulates the Electronic Register of Apostilles of the Ministry of Justice and regulates the procedure for issuing Apostilles in paper and electronic format.

All Apostilles issued by the competent authorities in Spain in both paper and electronic format are filed centrally and automatically in the Register, and the validity of the Apostilles issued can be verified by means of a verification code (CSV).

The aforementioned Order JUS/1207/2011 establishes that original documents originally issued by the General State Administration and the Administration of Justice in electronic format and digitized electronic copies of documents issued in paper format, made by the competent officials, may be subject to electronic Apostille, being these documents of a public nature, such as administrative or judicial documents. With regard to notarial documents, the Order states that documents authorised by a notary and private documents whose signatures have been authenticated by a notary may only be apostilled on paper.

The said Order also states that electronic Apostilles validly issued by the authorities of the other Contracting States of the 1961 The Hague Convention will be fully valid in Spain.

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Sweden



Sweden

Law Firm: *Astra Advokater*

Author(s): *Stephan Eriksson, Johan Cederberg*

- 1) **Is there specific legislation in Sweden ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

At this time, the Swedish Aviation Authority does not have a digital platform capable of electronic submissions of registration for ownership, leases etc. Furthermore, the authorities do not, at this point, accept digitally signed agreements as the foundation of registration matters. The trend in Sweden is, however, that public authorities strive towards digital handling of such matters, and it can be expected that in the near future, the submission of registration will be available digitally.

- 2) **If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

N/A

- 3) **Does the Aviation Authority in Sweden use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

Yes, the registry is digital, although only information about the owner and the operator is publicly available.

- 4) **If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Sweden?**

No, the submission for registration must be filed with physical files, signed in wet ink. The authority then transfers the physical documents into their electronic register.

- 5) **Are there any documents that are not required for registration with the Aviation Authority in Sweden but can be valid and enforceable by the use of some type of digital certification?**

Agreements, although not accepted as grounds for registration with the Aviation Authority, are legally binding between the parties no matter the format (verbal, signed digitally or signed in wet ink). The enforceability of such agreement is, should dispute arise, an issue of evidence.

- 6) **Is it possible to upload lawsuits, pleadings and procedural documents electronically in Sweden?**

Yes, that is possible and nowadays preferred by the courts.

- 7) **Do the courts of Sweden accept procedural documents executed digitally? Is there any specific certification required? Does Sweden make any distinction between official digital signatures and private digital signatures?**

Procedural documents are widely accepted and preferred by the courts. For procedural documents, there are no requirements for signing whatsoever. However, POAs needs to be submitted to the courts in original or signed and submitted through the court's digital platform for it to be acceptable.

- 8) **Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

As mentioned above, agreements are legally binding, no matter the format. If digitally signed, it does not need expressed consent or referral. However, to avoid the issue of proving the validity of the agreement (or other document), it is recommended that it is clearly stated that the agreement or document is signed digitally, and it is further recommended that cryptographic or two-step authentication is used to validate the signee's identity.

- 9) **Can foreign entities not located in Sweden execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Sweden? Are there any other formalities required?**

No, the Aviation Authority does not accept digitally signed agreements or finance documents. Such documents need to be submitted in original (and in case of lease, together with two (2) authenticated copies). Furthermore, if the applicant is a legal entity, some sort of proof of incorporation showing the legal capacity of the signee will need to be submitted.

- 10) **Does the Aviation Industry in Sweden usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?**

To our knowledge, no.

Sweden

Continued...



11) Are there any Notary or Apostille requirements in Sweden?

If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

No, generally, there are no notary or apostille requirements. In cases where authentication of a document is required, it is sufficient that a physical person (stating name, SSN, telephone number) asserts the authenticity of the relevant document with a staple on the copy.

a. Has Sweden implemented the e-Apostille program?

No.

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Switzerland



Switzerland

Law Firm: *gbf Attorneys-at-law Ltd*

Author(s): *Marco Novoselac and Philippe Wenker*

- 1) Is there specific legislation in Switzerland ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?**

The Swiss Federal Act on Electronic Signatures (ZertES) governs the legal framework for electronic signatures, the use of digital signatures, providers of digital signatures as well as rights and obligations. In particular, this act sets out the requirements for electronic signatures to be considered equivalent to handwritten signatures as set forth by the Swiss Code of Obligations. The electronic signature regulated by the ZertES is a technical procedure for guaranteeing the integrity of a document and the identity of the signatory. It is based on an infrastructure managed by certified service providers.

However, the Swiss Federal Office of Civil Aviation (FOCA) administration the Swiss aircraft registry (being the Swiss aeronautical registry) and the Swiss aircraft record (which is a separate registry, where rights in aircraft (such as ownership, mortgages and leases are recorded)) has not issued regulations governing the use of electronic documents.

- 2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?**

Not applicable (see question 1 above).

- 3) Does the Aviation Authority in Switzerland use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?**

No.

- 4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Switzerland?**

No.

- 5) Are there any documents that are not required for registration with the Aviation Authority in Switzerland but can be valid and enforceable by the use of some type of digital certification?**

Under Swiss law, a handwritten signature is only required in specific cases (such as, for example, the assignment of rights) but is often contractually reserved. In such cases, besides handwritten signatures, the qualified electronic signature (QES), according to the ZertES, fulfills the formal requirements. In cases where the written form is solely reserved by contract, the parties can always mutually adjust the contractual written form requirement according to their needs, for example, by incorporating the exchange of emails or using signature forms common in the market but not designed as QES under Swiss law (such as Adobe's basic signatures or DocuSign). Note that Adobe's basic signatures or DocuSign do not (yet) qualify as QES.

- 6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in Switzerland?**

Yes, that is possible. However, certain legally accepted providers or platforms must be used. Further, a submission must be electronically signed in accordance with the requirements of the ZertES.

- 7) Do the courts of Switzerland accept procedural documents executed digitally? Is there any specific certification required? Does Switzerland make any distinction between official digital signatures and private digital signatures?**

Yes, see the answer to question 6. As far as the distinction between official and private signatures is concerned, please see our answer to question 5 above.

- 8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?**

Please see the answer to question 5 above.

- 9) Can foreign entities not located in Switzerland execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Switzerland? Are there any other formalities required?**

Not applicable (see question 1 above).

Switzerland Continued...



10) Does the Aviation Industry in Switzerland usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

No.

11) Are there any Notary or Apostille requirements in Switzerland? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has Switzerland implemented the e-Apostille program?

There are Notary or Apostille requirements in Switzerland for certain transactions (such as with real estate). Switzerland has not implemented the e-Apostille program.

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Turkey

ERTEN

Turkey

Law Firm: Erten Attorneys at Law

Author(s): Alper Efe Erten, Eda Nur Akgül, Ali Haydar Aksu

1) Is there specific legislation in Turkey ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

Electronic Signature Law regulates the merits and procedures concerning the electronic signature. Electronic Signature Law does not provide a certain list of documents that can be executed with the use of the electronic signature but provides that any document except documents subject to a mandatory formal procedure according to laws and regulations, Letter of Bank Guarantee and Surety Bonds drafted by the insurance companies based on Turkey. Pursuant to the Circular on Registration of Financial Lease Contracts Covering Financial Leases of Persons Residing Abroad to Persons Residing in Turkey and Circular on IDERA Financial Lease agreements and IDERAs shall be carried out by a notary public. Therefore, it is not possible to use electronic signatures.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

3) Does the Aviation Authority in Turkey use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The Directorate General of Civil Aviation does not use the electronic register for Aircraft Documents or Aircraft Documents.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in Turkey?

5) Do the courts of Turkey consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?

The validity and enforceability of the documents, such as lease contracts, are bound to the registry of the contracts under the Financial Leasing Registry under the Financial Leasing Association and approval of the Directorate General of Civil Aviation.

The Financial Leasing Association and the Directorate General of Civil Aviation do not use any electronic register, and both institutes require Notary requirements to be fulfilled. When it comes to the Notary affirmation procedure, Notaries require documents to be executed with ink signatures.

In this regard, since the documents executed using an electronic signature or certification are not affirmed by the Notaries, a registry cannot be made by the Financial Leasing Registry, and approval cannot be given by the Directorate General of Civil Aviation, which results in documents to be void and unenforceable.

When it comes to documents such as IDERA, the Regulation on IDERA(SHY-IDERA) specifically regulates that IDERA must be drafted and executed before a notary and must be signed physically.

6) Is it possible to upload lawsuits, pleadings, and procedural documents electronically in Turkey?

The National Judicial Information System allows all litigation processes to be conducted online by using secure electronic signatures, and it is indeed possible to initiate a legal claim before a court and maintain meticulous records of ongoing lawsuits, learn trial schedules, submit documents, and make payments for expenses and fees online.

7) Do the courts of Turkey accept procedural documents executed digitally? Is there any specific certification required? Does Turkey make any distinction between official digital signatures and private digital signatures?

In Electronic Signature Law, there are two types of electronic signatures in essence, namely electronic signature and secure electronic signature.

Pursuant to the Electronic Signature Law, a secure electronic signature has legal recognition, and Article 5 explicitly recognizes the validity of both handwritten signatures and secure digital electronic signature; therefore, a secured electronic signature has the same legal effect as a handwritten signature. According to the Turkish Regulation, in exceptional cases, an official form or a special ceremony and guarantee agreements other than bank letters of guarantee cannot be executed with a secure electronic signature. In this case, it is also possible that a secure electronic signature may not meet the written form requirement.

It should be noted that e-signatures are only issued by certified Electronic Certificate Service Providers sanctioned by the Turkish Information and Communication Technologies Authority. Consequently, an e-signature was provided by an approved provider, and electronic documents can be executed with digital validity.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

According to Turkish Regulation, there is no form required for the validity of contracts, except for some contracts which require

ERTEN

Turkey Continued...

an official form or special procedure, such as the sale of real estate. Therefore, when there is no special form requirement, it will be possible to sign contracts with an electronic signature. The electronic signatures that shall be fulfilled based on a qualified electronic certificate conditions will not be deemed as secured, and they will fulfil the written requirements. In other words, if a document's validity is bound to a formal procedure according to Law, then an electronic signature cannot be used on execution at all.

9) Can foreign entities not located in Turkey execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in Turkey? Are there any other formalities required?

Validity and enforceability of the documents, such as financial lease contracts, are bound to the registry of the contracts under the Financial Leasing Registry under the Financial Leasing Association and approval of the Directorate General of Civil Aviation. In terms of IDERA, it is specifically regulated under the Regulation on IDERA (SHY-IDERA) that it must be drafted and executed before a Notary and signed physically.

The Financial Leasing Association and the Directorate General of Civil Aviation do not use any electronic register, and both institutes require the Notary requirements to be fulfilled. When it comes to the Notary affirmation procedure, the Notaries require documents to be executed with ink signatures. Therefore, foreign or native electronic signatures cannot be used with regard to the establishment of validity and enforceability for such contracts. Therefore, Financial Lease Agreements or any Finance Documents must be signed using a wet signature to be deemed as valid.

10) Does the Aviation Industry in Turkey usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Blockchain technology is not used for the purpose of control of Aircraft Documents or any such areas. The Directorate General of Civil Aviation uses digital tools only in its communications on matters such as document requests, permit requests and incident reporting.

11) Are there any Notary or Apostille requirements in Turkey? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

There are both Notary and Apostille requirements in Turkey. Notaries do not apply affirmation to electronically signed documents; they require ink signature copies of the documents for the affirmation.

a. Has Turkey implemented the e-Apostille program?

Turkey is one of the signatory parties to the Hague Convention of 1961 and its amendments. Therefore, documents that include an e-Apostille can be used for all procedures concerning registration with Civil Aviation Authorities.

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USA - Miami



USA

Law Firm: Harper Meyer

Author(s): James M. Meyer

1) Is there specific legislation in the United States ruling the using of documents (such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs) executed with the use of digital platforms or any electronic signatures by the local Aviation Authority?

There is specific legislation in the United States that addresses the use of electronic signatures and documents in various industries, including aviation. The Electronic Signatures in Global and National Commerce Act (ESIGN) and the Uniform Electronic Transactions Act (UETA) are two federal laws that provide a legal framework for the use of electronic signatures and documents in interstate and intrastate commerce, respectively.

The Federal Aviation Administration (FAA) has also issued guidance on the use of electronic signatures and documents in various areas of aviation, including pilot certificates, aircraft registrations, and maintenance records. The FAA's guidance generally follows the requirements of ESIGN and UETA, which provide that electronic signatures and documents are generally valid and enforceable so long as they meet certain requirements, such as demonstrating the signer's intent to sign and maintaining an accurate record of the signature. Furthermore, the FAA requires electronic signatures to be digital signatures and follow certain requirements.

Regarding specific documents like leases, security agreements, mortgages, lease assignments, novation, and IDERAs, the validity of electronic signatures and documents will depend on the specific state law governing the transaction, as well as any specific requirements or guidelines issued by the FAA or other relevant regulatory agencies. It is recommended to consult with legal counsel and review applicable laws and regulations to ensure compliance.

2) If your answer to (1) is yes, is there any specific requirement for the validity of such signatures, such as completion with a specific cryptographic platform developed by any local institute of technology?

The FAA requires that any electronic signature meets certain criteria to be considered valid and enforceable. Specifically, the FAA requires that electronic signatures be "digital signatures." An acceptable digital signature will have, at minimum, the following components:

- 1) Shows the name of the signer and is applied in a manner to execute or validate the document;
- 2) Includes the typed or printed name of the signer below or adjacent to the signature when the signature uses a digitized or scanned version of the signer's hand-scribed signature or the name is in a cursive font;
- 3) Shows the signer's corporate, managerial, or partnership title as part of or adjacent to the digital signature when the signer is signing on behalf of an organization or legal entity;

- 4) Shows evidence of authentication of the signer's identity, such as the text "digitally signed by" along with the software provider's seal /watermark, date and time of execution; or have an authentication code or key identifying the software provider; and
- 5) Has a font, size and color density that is clearly legible and reproducible when reviewed, copied and scanned into a black-on-white format.

The FAA does not specifically require the use of a cryptographic platform developed by a local institute of technology for electronic signatures in aviation-related documents. However, some organizations may choose to use cryptographic platforms or other technologies to ensure the security and authenticity of electronic signatures and records. While the FAA does not require the use of a specific cryptographic platform for electronic signatures, organizations should ensure that any technology used meets the FAA's requirements for electronic signatures and records. Accordingly, we recommend consulting with legal and industry experts familiar with the specific requirements and best practices for executing and managing aviation documents in a digital format.

3) Does the Aviation Authority in the United States use an electronic register for Aircraft Documents or Aircraft Lease Documents (including Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs)?

The FAA does maintain an electronic registry system for recording aircraft documents, including aircraft leases, security agreements, mortgages, lease assignments, novations, and IDERAs (Irrevocable De-Registration and Export Request Authorizations). This registry system is commonly known as the FAA Aircraft Registry and is a part of the FAA's Aeronautical Center.

The FAA Aircraft Registry is responsible for maintaining records and documents related to the ownership, security interests, and lease agreements of civil aircraft in the United States. It is essential for aircraft owners, lessors, lessees, and other parties to file the necessary documents with the FAA Aircraft Registry to establish and protect their rights and interests concerning the aircraft. This electronic registry system allows for easier access to information and streamlined processing of filings.

The U.S. has also adopted the use of the International Registry of Mobile Assets (IR), which serves as a central repository for the registration and filing of security interests in aircraft and aircraft-related assets. The IR was established in 2004 by the Cape Town Convention. The IR allows for the electronic registration and filing of various documents related to aircraft and aircraft-related assets, including leases, security agreements, mortgages, lease assignments, novation, and IDERAs. Parties can register their interests in the IR and search the database for information about existing interests.



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The use of the IR has become a widely accepted practice in the aviation industry as it provides a streamlined and efficient method for registering and searching for interests in aircraft and aircraft-related assets. Many parties choose to use it as it provides a level of certainty and protection for their interests in aircraft and aircraft-related assets.

4) If your reply to question 3 is yes, is it possible to upload electronic files for registration, such as Leases, Security Agreements, Mortgages, Lease Assignments, Novation and IDERAs with the Aviation Authority in the United States?

The FAA does not have a specific database or electronic filing system for registering leases, security agreements, mortgages, lease assignments, novation, or IDERAs for aircraft. These types of documents are typically filed with the relevant state or local authorities where the aircraft is based or registered. Mortgages and Security Agreements must be sent to the Aircraft Registration Branch. Leases specifically must be sent to the FAA's Aircraft Registry in Oklahoma City within 24 hours of executing a lease.

However, the FAA does maintain an electronic database called the Aircraft Registration Database, which is used to register and track ownership and other information related to aircraft. The FAA accepts electronic filings for certain aircraft registration-related documents, such as the Application for Aircraft Registration and the Aircraft Bill of Sale.

The FAA may also require that other documents be filed in hard copy via certified mail or courier delivery rather than electronic submission. If you need to file leases, security agreements, mortgages, lease assignments, novation, or IDERAs with the FAA, you should consult with appropriate legal counsel to ensure that the documents are filed through the appropriate process.

5) Do the courts of the United States consider valid and enforceable documents executed by the use of some type of digital signature or certification even if not registered (or registrable) with the local Aviation Authority?

Yes. U.S. courts consider certain documents enforceable if they are executed using some type of digital signature, even if they are not registered (or registrable) with the local Aviation Authority. Certain documents that are not directly required for registration could be considered valid and enforceable if properly authenticated and certified using digital signatures or other secure methods. Examples of such documents could include maintenance records and employment contracts.

These documents, although not directly needed for FAA registration, can be relevant in the context of aviation operations, maintenance, or personnel management. Using digital certification to authenticate these documents can provide an additional layer of security, ensuring their validity and enforceability. However, it is always recommended to consult with a legal professional to verify the specific requirements for your situation and to ensure that your documents meet the necessary standards.

6) Is it possible to upload lawsuits, pleadings and procedural documents electronically in the United States?

Yes, it is possible to file lawsuits, pleadings, and procedural documents electronically in the United States. The federal

court system and many state court systems have adopted electronic filing systems, which allow parties to file documents online through a designated portal. For example, the federal court system in the United States has implemented the Case Management/Electronic Case Files (CM/ECF) system, which allows parties to file documents electronically and provides access to court documents online. Similarly, many state court systems have implemented their own electronic filing systems.

However, the specific rules and procedures for electronic filing may vary depending on the court and the type of document being filed. It's important to consult the applicable court rules and guidelines to ensure compliance with the requirements for electronic filing. Additionally, while electronic filing may be an option for many types of documents, there may be certain documents that must be filed in paper format or that require additional steps for electronic filing. It is always advisable to consult with legal counsel to ensure compliance with the applicable rules and requirements for filing documents in a specific case or jurisdiction.

7) Do the courts of the United States accept procedural documents executed digitally? Is there any specific certification required? Does the United States make any distinction between official digital signatures and private digital signatures?

Yes, the courts in the U.S generally accept procedural documents executed digitally, provided that they meet the requirements for electronic filing and signature authentication. There are various methods of electronic signature authentication that may be acceptable in U.S. courts, including digital signatures, electronic signatures, and other forms of electronic authentication. However, there may be additional requirements for electronic signatures in certain contexts, such as when filing documents with government agencies or for certain types of contracts. Note that not all types of documents can be signed electronically when filing with a court. The specific requirements for signature authentication may vary depending on the court, the type of document being filed, and the jurisdiction.

Regarding the distinction between official and private digital signatures, there is no single system of digital signature certification in the United States. Some types of digital signature certification may be issued by government agencies or other official entities, while others may be issued by private companies or organizations. In general, the authenticity and validity of a digital signature will depend on the specific certification and authentication method used.

It is always advisable to consult with legal counsel or court personnel for guidance on the rules and requirements for electronic filing and signature authentication in a specific case or jurisdiction.

8) Are there any formal requirements for the validity of documents executed by digital signatures? Ex.: Does the consent of the parties to digital signatures have to be expressly referred to in the agreement?

Yes, the Federal Aviation Administration (FAA) has specific requirements for the validity of documents executed by digital signatures. To be valid, electronic signatures used in FAA-related documents must comply with the requirements of Advisory Circular A120-78A 14 CFR part 11, which includes technical

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standards for electronic signature methods and processes. Specifically, the FAA requires that documentation submitted to them is signed with a digital signature. AFS 750 change bulletin 16-03 outlines the requirements of a digital signature.

The FAA defines digital signature as follows:

“Digital signatures are a type of electronic signature that is legally acceptable and offers both signer and transaction authentication. The digital signature is the most secure and full-featured type of electronic signature. Digital signatures are federally acceptable types of electronic signatures for business transactions as specified in the National Institutes of Standards and Technology (NIST) guidelines.”

The list of requirements for these digital signatures includes:

1. An acceptable digital signature will have, at minimum, the following components:
2. Shows the name of the signer and is applied in a manner to execute or validate the document;
3. Includes the typed or printed name of the signer below or adjacent to the signature when the signature uses a digitized or scanned version of the signer’s hand-scribed signature or the name is in a cursive font;
4. Shows the signer’s corporate, managerial, or partnership title as part of or adjacent to the digital signature when the signer is signing on behalf of an organization or legal entity;
5. Shows evidence of authentication of the signer’s identity, such as the text “digitally signed by” along with the software provider’s seal /watermark, date and time of execution; or have an authentication code or key identifying the software provider; and
6. Has a font, size and color density that is clearly legible and reproducible when reviewed, copied and scanned into a black-on-white format.

On the other hand, FAA regulations do not require that the agreements expressly refer to the use of digital signatures. Nevertheless, it is generally recommended that parties explicitly agree to the use of electronic signatures and consent to their use in the relevant agreement. This can help avoid any confusion or disputes regarding the validity of the digital signature.

It’s important to note that specific requirements for digital signatures may vary depending on the type of FAA-related document and the applicable regulations. If you have questions about the requirements for digital signatures in relation to a specific FAA-related document, it’s a good idea to consult with a legal professional familiar with the relevant laws and regulations.

9) Can foreign entities not located in the United States execute Lease Agreements or any Finance Documents with digital signatures to be filed for registration with the Aviation Authority in the United States? Are there any other formalities required?

Yes, foreign entities not located in the United States can execute Lease Agreements or any Finance Documents

with digital signatures to be filed for registration with the Federal Aviation Administration (FAA), provided that the digital signatures comply with the legal requirements for electronic signatures under US law and the specific Electronic Transactions Act (UETA).

In addition to complying with the legal requirements for electronic signatures, foreign entities may need to comply with other formalities required by the FAA for registering leases and finance documents related to aircraft. It’s recommended that foreign entities seeking to execute Lease Agreements or any Finance Documents with digital signatures for registration with the FAA consult with legal professionals familiar with the applicable laws and regulations to ensure compliance with all relevant requirements.

10) Does the Aviation Industry in the United States usually use digital tools such as blockchain technology for the purpose of control of Aircraft Documents in substitution of printed paper Aircraft Documents?

Despite some initiatives, the use of blockchain technology for the control of aircraft documents is not yet widely adopted in the United States. This is due in part to the complex regulatory environment surrounding aviation records and documents, as well as the significant investment and infrastructure required to implement blockchain technology on a large scale.

Blockchain technology offers several potential benefits for the aviation industry, such as enhanced security, efficiency, and transparency in the management of aircraft records and documents. For example, blockchain can provide a secure and tamper-proof digital record of aircraft maintenance and repair history, which can help improve safety and reduce costs. Some companies in the industry have started experimenting with the implementation of these technologies. The International Air Transport Association (IATA) and the FAA have also started exploring opportunities to implement this technology. Despite being in its early stages, blockchain technology has the potential to be widely adopted in the aviation industry.

11) Are there any Notary or Apostille requirements in the United States? If so, do they apply to electronically executed documents, and how does this affect the possibility of electronic execution and delivery of aviation documents?

a. Has the United States implemented the e-Apostille program?

Yes, there are Notary and Apostille requirements in the United States, but they may not necessarily apply to electronically executed documents in the same way as paper documents. Documents signed by a U.S. federal official, or a U.S. consular officer require an apostille issued by the U.S. Department of State. Notary requirements in the United States typically involve the certification and authentication of signatures on legal documents by a notary public, and these requirements vary by state. While some states allow for electronic notarization of documents using electronic signatures and seals, others require the physical presence of the parties involved in the notarization process.

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Regarding electronically executed documents, some states have enacted legislation that allows for electronic notarization and the use of electronic seals, while others may have more restrictive requirements or no laws addressing electronic notarization. Similarly, the process for obtaining an apostille for electronically executed documents may vary by state and depend on the specific requirements of the receiving country.

In the context of aviation documents, the use of electronic signatures and seals may be acceptable for certain types of documents, depending on the requirements of the FAA and other regulatory authorities. It's important to consult with legal professionals familiar with the applicable laws and regulations to ensure compliance with all relevant requirements.

As for the e-Apostille program, the United States has implemented the e-Apostille program. The program, which is operated by the Hague Conference on Private International Law, allows for the electronic issuance of Apostilles, which are official certifications that authenticate the origin of public documents.

DISCLAIMER: The above information should not be relied upon by the reader for legal advice as it is intended merely to serve as a preliminary guide to the laws and regulations governing the registration of aviation and aircraft in this country. The information intends to provide summary-level information about certain tax issues affecting general aviation and aircraft finance. Since these materials are general in nature, readers are encouraged to obtain legal and tax advice from their own professional legal and tax counsel based on specific facts and circumstances regarding their acquisition and/or use of aviation and aircraft.

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