

LW6176E: AVIATION LAW

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Aviation Law

Subject Code

LW - Law

Course Number

6176E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

Aviation is experiencing an incredibly fast growth in a globalized and very competitive environment. Both private entities and public institutions take part to the main sector's challenges combining public policies, private interests and

international issues. Regional and international regulation authorities, airlines and alliances, airports operators, aircraft manufacturers, original equipment manufacturers are facing a growing number of complex problems and have to deal with more legal and regulatory issues. In this context, the demand for qualified legal expertise is increasing.

This course aims to examine the legal and regulatory regime, both international and regional, governing air transport through different stakeholder's perspectives: states (Chicago convention, international organization such as ICAO, freedoms of the air, open sky agreement, aviation security), passengers (contract of carriage, Warsaw-Montreal liability regime), airlines (aircraft financing, liability, staff status, competition rules), aircraft manufacturers (contracts, liability, competition) and airports (management, ownership models). This course also addresses litigation and arbitration issues related to aviation sector.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Appreciate the role played by international cooperation in the creation of, and further development of, air transport systems, including an examination of the legal status and role of the International Civil Aviation Organization (ICAO).			x	
2	Understand the main freedoms to be granted by different countries involved in an international commercial carriage by air.			x	
3	Have a thorough understanding of the different contracts linking aviation players in an international context.				x
4	Analyse a factual scenario involving an aviation accident and state the legal liabilities involved, including providing advice to clients. Understand the connections between liability and insurance.				x
5	Be familiar with how disputes are settled in aviation sector.			x	
6	Demonstrate an awareness of the impact of security issues on aviation law in the years following the terrorist attacks of September 11, 2001.			x	
7	Gain basic knowledge on how airports are owned and managed, involving both by public and private entities.		x		
8	Understand the main legal challenges of both the increasing competition in aviation sector and the weight of environmental constraints.			x	
9	Understand the major conventions, laws, legal rules and sources of information for the aviation sector within Hong Kong and China and internationally.			x	

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Apply convention provisions to determine (i) if an accident occurred and (2) to determine liabilities associated with a problem scenario presented to students.	1, 2, 4, 6	1
2	Study the major conventions and agreements that make up the liability system.	1, 2, 4, 6	1
3	Understand and research relevant databases of organisations including online legal databases available through the library.	1, 2, 3, 4, 5, 6, 7, 8, 9	0.5
4	Study the key institutions and understand the critical role that they play by laying down standards that are adopted at national level.	1, 4, 5, 8, 9	0.5
5	Study legislative and regulatory initiatives taken and the incidence of hijacking and air rage.	6	0.5
6	Provide critiques of the liability regime for passengers and people and property on the ground, review new proposals, assess the effectiveness of measures taken in the wake of the 9/11 bombings, and devise new proposals for legislative and regulatory reform.	6	0.5

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Performance in inter-active small group sessions	1	10	The use of Generative AI tools is not allowed.
2	Problem based assignment	2, 3, 4, 5, 6	30	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

40

Examination (%)

60

Examination Duration (Hours)

2

Additional Information for ATs

Examination: The use of Generative AI tools is not allowed.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course.

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programme and the Internet.

Assessment Rubrics (AR)**Assessment Task**

Performance in inter-active small group sessions (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

The portion of the overall mark allocated to performance/participation in inter-active in class activities will be assessed on the quality of the participation. Assessment criteria for those activities, their nature and their timing will be set out in the study guide/course manual and will be further expanded upon by the course leader.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Problem based assignment (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

To pass this course students must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

The duration of the examination will be at the discretion of the course leader. The course leader will announce the duration of the examination in the first week of the course. Similarly, the course leader will announce whether the examination will be closed book or open book.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

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(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Performance in inter-active small group sessions (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

The portion of the overall mark allocated to performance/participation in inter-active in class activities will be assessed on the quality of the participation. Assessment criteria for those activities, their nature and their timing will be set out in the study guide/course manual and will be further expanded upon by the course leader.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Problem based assignment (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

To pass this course students must obtain an aggregate mark of 40% and a minimum of 40% in each of the coursework and the examination elements of the assessment. Coursework for this purpose means those ways in which students are assessed otherwise than by the end of session examination.

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Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Sovereignty over air space; Chicago Convention; International Civil Aviation Organisation; damage to property and persons on the ground; air carriers' liability to passengers for accidents; liability for cargo and baggage; air rage; aviation security; bilateral air services agreements and intergovernmental aviation disputes; aviation insurance; Montreal Convention of 1999.

Detailed Syllabus

A. Introduction - historical landmarks / international law framework / international law and comparative law / overview of international aviation transport market.

B. International conventions and institutional organizations in the aviation sector - main conventions and treaties (Chicago, Warsaw, Montreal...): provisions, scope, binding force, enforcement. Main aviation related institutions (public-private) such as ICAO, IATA. 9 freedoms of the air / open sky agreements (ATA).

C. Main contracts of the aviation sector - focus on sale and lease contracts / sub-contracting / airlines-passenger' s contracts - elements of drafting and negotiation - main provisions and clauses - performance - choice of law applicable.

D. Litigation and alternative dispute resolution (ADR) in the aviation sector. Focus on arbitration: how it works - SWOT analysis - international chambers (ICC-China-HK-Singapore) - recognition and enforcement of arbitration awards.

E. Liability and insurance - Airlines, aircraft manufacturers, OEM civil and criminal liability / scope, main principles and implementation of Warsaw and Montreal international conventions - impact on insurance. Rome convention on surface damages.

F. Aircraft Status - Cape Town convention / aircraft equipment protocol / law applicable to the aircraft.

G. Crew status - Captain status and powers on-board / specific liability - labour law applicable to crew members. Conflicts / recent case law.

H. Aviation security (3h) - Tokyo / The Hague / Montreal and Beijing conventions.

I. Airport ownership and management (4h): new frameworks worldwide / concessions / corporatization / privatization.

J. Competition law in aviation sector (5h) main issues (cartels / monopolies and dominant positions / mergers / state aids to airports and new entrants / slots allocation & trading) / E.U. framework / US antitrust law / WTO...

K. Aviation and environmental constraints (2h) - National, regional and international framework.

L. Hong-Kong and China mainland legislative and regulatory framework (3h)

Reading List

Compulsory Readings

Title	
1	Journals:
2	Air & Space Law - The Netherlands: Kluwer Law International
3	Air & Space Lawyer - American Bar Association, USA
4	Air Law Review - New York University, USA
5	Annals of Air and Space Law - Institute and Centre of Air and Space Law, Faculty of Law, McGill University, Montreal, Canada
6	Aviation Accident, Law and Practice - Matthew Bender & Co., Inc., USA
7	Aviation & Space Journal - University of Bologna, Italy
8	Issues in Aviation Law & Policy - DePaul University College of Law, Illinois, USA
9	Journal of Air Law and Commerce - Southern Methodist University School of Law, Texas, USA
10	Books:
11	An Introduction to Air Law / I.H.Ph Diederiks-verschoor & Pablo Mendes de Leon / The Netherlands: Kluwer Law International, 9th Edition, 2012
12	International Air Law and ICAO - Michael Milde / Eleven International Publishing, 2nd ed., 2012 (Volume 10)
13	The Principles and Practice of International Aviation Law - Brian F. Havel
14	Foundations of Aviation Law - Michael W. Pearson
15	International Aviation Law - Ronald I.C. Bartsch

Additional Readings

Title	
1	Nil