

Basic information	
Applicable laws	<ul style="list-style-type: none">• § 16 Aviation Act (<i>Luftfahrtgesetz – LFG</i>)• §§ 6 ff Civil Aircraft and Equipment Regulation 2010 (<i>Zivilluftfahrzeug- und Luftfahrtgerät-Verordnung 2010 - ZLLV 2010</i>)• Regulation regarding the fees to be levied by Austro Control (<i>Austro Control-Gebührenverordnung – ACGV</i>) <p>All laws can be downloaded under www.ris.bka.gv.at.</p>
Competent authority	<p>Austro Control Österreichische Gesellschaft für Zivilluftfahrt mit beschränkter Haftung Schnirchgasse 11 A-1030 Wien</p> <p>Tel.: ++43 5 1703 - 0</p> <p>Email: info@austrocontrol.at</p> <p>www.austrocontrol.at</p> <p>(In this document referred to as „ACG“).</p>
Characteristics of the Austrian aircraft register	
No registration of the owner	<p>On 30 January 2006 Austria has made the following notification to ICAO, declaring a difference between the national regulations and the International Standards contained in Annex 7 of the International Convention on Civil Aviation:</p> <p>“OWNER” on the certificate of registration <u>means</u> the “aircraft OPERATOR” and not the “aircraft PROPRIETOR”.</p> <p>As a consequence the legal owner of an aircraft (in the sense of the aircraft proprietor) is <u>neither</u> named on the certificate of registration <u>nor</u> registered in the aircraft register. He remains fully private.</p> <p>Instead, the aircraft operator (referred to as “HALTER” in Austria) is named on the certificate of registration and in the aircraft register.</p> <p>In order to avoid misunderstandings, ACG often provides certificates with the following wording upon application:</p> <p><i>Austro Control GmbH would like to inform you, that on [Date] [Name of the legal owner] was disclosed as owner (in the legal</i></p>

	<p><i>sense of ownership of property) of the aircraft with the registration mark [...], manufacturer's designation [...], serial number [s/n], in the documents of the Austrian Aircraft Register. No responsibility is taken for the actuality of the data at Austro Control GmbH.</i></p> <p><i>The owner (in accordance with the Convention of International Civil Aviation and in the legal sense of possessor), [Halter], is referred on the Certificate of Registration of [Datum].</i></p> <p>Further comfort is given to the legal owner by § 10 par 3 ZLLV 2010 which sets forth that a de-registration of the aircraft by the Operator/Halter can only be arranged with the consent/signature of the legal owner of the aircraft.</p>
<p>No registration of pledges</p>	<p>Pledges over an aircraft can <u>not</u> be registered in the Austrian aircraft register.</p> <p>Legal alternative: If financing of an aircraft is required, the financing entity acquires the ownership of the aircraft and sells the aircraft to the Operator/Halter upon the condition that the full purchase price has been paid (“conditional sale agreement”). The interests of the financing entity are protected in so far as further dispositions in the aircraft register can only be made with the consent of the legal owner.</p>
<p>Registration marks</p>	<ul style="list-style-type: none"> • Registration marks can be reserved prior to the registration of the aircraft. • Applications for the reservation of a registration mark should be submitted to ACG by using the form “Antrag Kennzeichenregistrierung” http://www.austrocontrol.at/en/Images/FO_LFA_ACE_304_tcm586-64687.pdf. • Registration marks can be reserved for a period of 12 months. (The reservation period is prolongable.) A fee of € 90 will be levied for the reservation, if after elapse of the reservation period no aircraft registration will take place. • Registration marks begin with “OE” to mark the Austrian registration, followed by a group of three letters. The first letter is determined by law in Attachment B to the ZLLV 2010. • If no reservation has been made, a reservation mark will be assigned in the registration process.
<p>Application for registration</p>	<p>The form “Eintragungsantrag”, which can be downloaded under http://www.austrocontrol.at/en/Images/FO_LFA_ACE_280_tcm586-58421.pdf must be completed and duly signed by the Operator/Halter of the aircraft. A notarization of the signature is not required in general, but can be requested by ACG at any time in their discretion.</p>

Documents to be attached to the application	
Proof of ownership	<p>Although the legal owner of an aircraft will not be registered in Austria, the legal ownership of an aircraft has to be proved upon registration.</p> <p>The easiest way is to submit a “Bill of Sale“, which evidences that an agreement has been concluded (“title”) and the ownership has been passed on to the owner (“mode”). If a Bill of Sale, evidencing both requirements is not available, title and mode of the acquisition of ownership have to be proved in a proper way. ACG recommends to use the wording of the “<i>Eigentumsübertragungserklärung</i>” provided under http://www.austrocontrol.at/Images/FO_LFA_ACE_300_tcm586-58422.pdf. The document has to be signed by the seller of the aircraft.</p> <p>Please note that ownership is not constituted by registration and entry in the Austrian aircraft register.</p> <p>If the aircraft has already been registered in another state and a change of ownership shall not take place, a further proof will normally not be required, provided that the certificate of de-registration will contain the name of the legal owner. (It is, however, in the discretion of ACG to demand additional evidence at any time.)</p>
Proof of authorization of disposal for the operator	<p>If the aircraft shall be operated by an Operator/Halter instead of the legal owner, the authorization of disposal has to be evidenced by submitting the form “<i>Halterschaftsübertragungserklärung</i>” (http://www.austrocontrol.at/content/lfa/Luftfahrzeuge/Luftfahrzeugregister/Register.shtml) regarding the transfer of the operatorship.</p> <p>This authorization has to be signed by the legal owner of the aircraft. In order to verify the due execution of the document, ACG usually requires the following documents if the legal owner is an entity:</p> <ul style="list-style-type: none"> • Certificate of incorporation to confirm the due incorporation and valid existence of the legal owner • Certificate of secretary that confirms the legal representation of the entity • Copy the passport of the person signing the document on behalf of the entity in order to verify the signature. <p>Please note that any other document can be provided which prove the existence of the owner and the legal authorization of the person signing the document.</p>
Proof of nationality requirements	<p>According to § 16 par 2 LFG, a person can be registered as Operator/Halter of an aircraft under the following conditions:</p> <ul style="list-style-type: none"> • If the Operator/Halter is an <u>individual</u>: The individual is a citizen of an EC member state or a state having the same status obtained by a bilateral treaty <u>and</u> if he is not an Austrian resident, a process agent in Austria is nominated.

	<p>The individual has to proof this requirement by submitting a copy of his passport.</p> <p>If the Operator/Halter is a <u>legal entity</u>:</p> <p>The legal entity is established under the laws of an EC member state or a state having the same status obtained by a bilateral treaty <u>and</u> having its company seat, administration or main place of business within the European Union or a state having the same status obtained by a bilateral treaty <u>and</u> a process agent in Austria is nominated, provided that no person is authorized to accept delivery of official documents in Austria.</p> <p>The legal entity has to prove this requirement by submitting a copy of the extract of the commercial register (or any other equivalent document requested by the ACG in their discretion).</p> <p>Please note that the nationality requirements only apply to the Operator/Halter of the aircraft. The legal owner can be of any other nationality if he has concluded an operation agreement (“<i>Halterschaftsübertragungserklärung</i>”) with an Operator/Halter who complies with the nationality requirements. The criteria of “substantial ownership and effective control” are not relevant for the registration of an aircraft in Austria.</p>
<p>Tax confirmation</p>	<p>A certificate issued by the Austrian tax authorities according to Art 27 par 1 VAT Code 1994 (<i>Umsatzsteuergesetz - UStG</i>) is required in the event of a Intra-Community acquisition of a new aircraft. The certificate can be applied for by using the form U10 - <i>Erklärung über den Erwerb neuer Fahrzeuge</i>“, which can be downloaded under http://www.bmf.gv.at/Service/Anwend/FormDB/show_mast.asp.</p>
<p>Proof of non-registration or de-registration</p>	<p>Registration can only be made if it can be proved that the aircraft is not entered in any other register. For new aircraft, this proof can be furnished by a certificate of non-registration of the aircraft, issued by the authorities of the exporting state.</p> <p>For a used aircrafts, a certificate of de-registration issued by the authorities of the state in which the aircraft concerned has been last registered is required.</p>
<p>Noise certificates</p>	<p>Noise certificates which prove the compliance of the aircraft with the noise requirements under the applicable law (<i>Zivilluftfahrzeug-Lärmzulässigkeitsverordnung 2005 – ZLZV 2005</i>) must be submitted.</p> <p>If the application for the airworthiness certificate is submitted simultaneously to the ACG, the technicians in charge for the airworthiness process at ACG will normally confirm to the aircraft register the compliance with the noise requirements.</p>
<p>Registration certificate</p>	<p>After registration, the Operator/Halter will receive a certificate of registration from the ACG. The legal owner of the aircraft is neither</p>

	<p>named in the certificate of registration nor publicly disclosed in the aircraft register. (Please see the explanation above under the characteristics of the Austrian aircraft register.)</p>
Registered information	<p>The following information is registered and publicly available in Austria:</p> <ul style="list-style-type: none"> • Register number • Nationality and registration mark • Manufacturer and manufacturer's designation of the aircraft • Aircraft serial number • MTOM • Name and address of the Operator/Halter
Registration fees	<p>Fees will be invoiced after registration of the aircraft. According to the applicable law (<i>Austro Control-Gebührenverordnung – ACGV</i>) the following fees have to be paid:</p> <ul style="list-style-type: none"> • Assignment of a registration mark: € 90 (if no registration shall take place within the 12 months reservation period) • Reservation of a registration mark: € 90 • Registration of an aircraft and issuance of a certificate of registration: <ul style="list-style-type: none"> Aircraft up to 1.200 kg: € 150 Aircraft from 1.201 up to 2.730 kg: € 250 Aircraft from 2.731 up to 5.700 kg: € 500 Aircraft from 5.701 up to 20.000 kg: € 1.000 Aircraft with more than 20.000 kg: € 2.500 <p>Further, stamp duties according to the applicable law ("<i>Gebührengesetz - GebG</i>") will be levied for the application and the attachments thereto.</p>
Next steps	<p><u>Certificate of Airworthiness:</u></p> <ul style="list-style-type: none"> • It is recommended that the process for obtaining a certificate of airworthiness is started together with the registration process. • The competent authority for the issuance of an airworthiness certificate is also the ACG. • The proof of the mandatory insurance requirements for aircraft in accordance with EC Regulation 785/2004 must be provided before a certificate of airworthiness can be obtained.
Further information	<p>Please contact Martina Flitsch at Jarolim Flitsch Rechtsanwälte GmbH under</p> <p>Tel.: ++43 1 253 7000</p> <p>Email: martina.flitsch@jarolim.at</p>

Please note that the information described above serves as preliminary information and does not constitute or replace a specific legal advice.
